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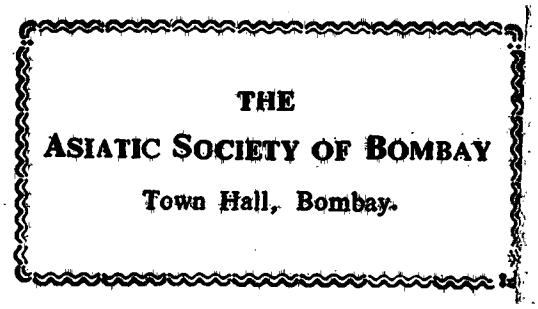

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AT THE TIME WHEN MR. ALGERNON SYDNEY WAS AMBASSADOR AT THE COVRT OF DENMARK MONSIEVR TERLON THE FRENCH AMBASSADOR HAD THE CONFIDENCE TO TEAR OVT OF THE BOOK OF MOTTOES IN THE KING'S LIBRARY THIS VERSE WHICH MR. SYDNEY ACCORDING TO THE LIBERTY ALLOWED TO ALL NOBLE STRANGERS HAD WRITTEN IN IT

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THOVGH MONSIEVR TERLON VNDERSTOOD NOT A WORD OF LATIN HE WAS TOLD BY OTHERS THE MEANING OF THAT SENTENCE WHICH HE CONSIDERED AS A LIBEL VPON THE FRENCH GOVERNMENT AND VPON SVCH AS WAS THEN SETTING VP IN DENMARK BY FRENCH ASSISTANCE OR EXAMPLE. *LORD MOLESWORTH'S PREFACE TO HIS ACCOVNT OF DENMARK.*

THE WORKS OF ALGERNON SYDNEY

A NEW EDITION

LONDON, PRINTED BY W. STRAHAN IUN.
FOR T. BECKET AND CO. AND T. CADELL,
IN THE STRAND; T. DAVIES, IN RUSSEL
STREET; AND T. EVANS, IN KING STREET
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ROYAL ASIATIC SOCIETY LIBRARY OF THE BOMBAY BRANCH OFFICE

"OR TO THE UNIUST TRIBUNALS UNDER CHANGE OF TIMES"

PREFACE TO THE FIRST EDITION OF THE DISCOURSES CONCERNING GOVERNMENT PRINTED IN MDCLXXXXVIII*

How highly the writings of wiſe and good men concerning government have been eſteemed in all ages, the teſtimony of hiſtory, and the preſervation of ſo many books compoſed by the antients on that ſubject, do ſufficiently manifeſt. And it may be truly ſaid, that unleſs men have utterly abandoned themſelves to all that is deteſtable, they have ſeldom attempted to detract from the worth of the aſſertors of liberty, though ambition and other paſſions, have influenced them to act in oppoſition to it. When Auguſtus had ſurpriſed a young Roman, who was related to him, reading a political diſcourſe of Cicero, he commended his judgment in that choice. The hiſtory of France, written by the preſident de Thou, with a ſpirit of freedom that might have been worthy of thoſe who had lived before the violation of their liberty, has been ſo generally valued by men of all ranks in that nation, that it is hard to find a book on any important ſubject, which has had ſo many editions. And the juſt eſteem, that the emperor Charles the fifth made of the Memoirs of Philip de Comines, though that author has given ſo many inſtances of his deteſtation of tyranny, may be enough to put this matter out of diſpute. But if all other proof were wanting, the implacable hatred and unwearied induſtry of the worſt of men to ſuppreſs ſuch writings would abundantly teſtify their excellency.

That nations ſhould be well informed of their rights is of the moſt abſolute neceſſity; becauſe the happineſs or infelicity of any people entirely depends upon the enjoyment or deprivation of liberty; which is ſo invincibly proved in the following diſcourſes, that to endeavour to make it more clear, would be an unpardonable preſumption.

If any man think the publication of this work to be unſeaſonable at this time, he is deſired to conſider, that as men expect good laws only from good government, ſo the reign of a prince, whoſe title is founded upon the principle of liberty which is here defended, cannot but be the moſt proper, if not the only time to inform the people of their juſt rights; that from a due ſenſe of their ineſtimable value, they may be encouraged to aſſert them againſt the attempts of ill men in time to come.

It

* By *John Toland*. Beſide the Diſcourſes concerning Government, he collected and firſt publiſhed Milton's proſe-works, and Harrington's works, "ſome of them from the original manuſcripts."

PREFACE TO THE FIRST EDITION

It is not neceſſary to ſay any thing concerning the perſon of the author. He was ſo well known in the world, ſo univerſally eſteemed by thoſe who knew how to ſet a juſt value upon true merit, and will appear ſo admirable in the following diſcourſes, as not to ſtand in need of a flattering panegyric. But it may not be amiſs to ſay ſomething of the diſcourſes now publiſhed.

The paper delivered to the ſheriffs immediately before his death informs us, that he had left a large and a leſſer treatiſe, written againſt the principles contained in Filmer's book; and that a ſmall part of the leſſer treatiſe had been produced for evidence againſt him at his trial. It is there alſo ſaid, that the leſſer treatiſe neither was, nor probably ever ſhould have been finiſhed. This therefore is the large work mentioned in that paper, and not the leſſer, upon part of which the wicked ſentence pronounced and executed againſt him was grounded.

It remains only to add a few words for ſatisfaction of the public, that theſe diſcourſes are genuine. And here I ſhall not need to ſay, that they were put into the hands of a perſon of eminent quality and integrity by the author himſelf; and that the original is, in the judgment of thoſe who knew him beſt, all written by his own hand: his inimitable manner of treating this noble ſubject is inſtead of a thouſand demonſtrations, that the work can belong to no other than the great man whoſe name it bears.

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This edition of A. Sydney's works was in the preſs, when I was perſuaded by a gentleman, who has a veneration for the author, to reviſe the impreſſion. I engaged in this undertaking with a deſign only to collate the firſt and ſecond editions, to rectify the punctuation, which was extremely faulty, and to correct any typographical error, which might occur upon a ſuperficial inſpection. I had no intention, and indeed very little time, to examine the accuracy of the author, with reſpect to hiſtorical facts. But I ſoon found, that the Diſcourſes on Government required a very attentive reviſal; that in every edition of that work there were ſeveral miſtakes in the names of perſons and places: as, Balthei and Amalthei, for Balthi and Amali, Almoranides for Almoravides, Chilperic the third for Childeric the third, Breſcia for Bedriacum, Theoreſtes and Cleoreſtes for Eteocles, Cleanthes for Diogenes, Naenius for Metellus, David for Solomon, Alfred for Ethelwolf, Caen for Rouen, Alphonſo the Chaſte for Alphonſo the Catholic, and the like *; that almoſt all the references in the margin were either falſe or defective; and that the author had ſometimes fallen into miſtakes of greater conſequence, by taking his quotations at ſecond hand. Thus, ch. ii. § 5, he ſays, "Egbert and Ethel-"ward came to the crown by the ſame authority, omnium conſenſu rex "creatur." And again, ch. iii. § 10, "Ethelwerd was choſen in the "ſame manner by the conſent of all." Here it was no eaſy matter to determine, which of the Saxon kings the author had in view. At firſt I imagined, that Ethelwerd was an erratum inſtead of Ethelbert, or Ethelred. But then it did not appear, that the words, "omnium conſenſu rex "creatur," had ever been applied to either of thoſe princes. After a tedious inveſtigation through all our ancient hiſtorians, I found this expreſſion uſed by Polydore Vergil in ſpeaking of Egbert; and was fully ſatisfied, that the paſſages above-mentioned were erroneous. Upon this preſumption I omitted the name of Ethelward in the former; and in the latter intimated my ſuſpicions, by including the clauſe relative to Ethelwerd in crotchets. Having ſince looked into Sadler's treatiſe on the Rights of the Kingdom, or cuſtoms of our anceſtors, touching the duty, power, election, or ſucceſſion of our kings, I found the following paragraph: "Egbert by all is a fixed ſettled monarch, but without or againſt right "of ſucceſſion: ordinatur in regem; ſo Ethelwerd, omnium conſenſu "rex creatur, in Polydore; ad regnum electus, moxque imperare juſſus, "patriae deſideriis ſatisfecit, as we read in the monk of Malmeſbury †."

Here

* See p. 93. 95. 187. 199. 204. 218. 270. 283. 324. 325. 369.

† Rights of the Kingdom, etc. p. 62.

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Here the perplexity was unravelled. All theſe paſſages relate to Egbert, as the reader will find at page 321; but an unlucky ſemicolon after "regem," which ſhould have been placed after "Ethelwerd," led our author, who has taken theſe quotations from Sadler, to miſtake an old hiſtorian for a Saxon king.

Theſe errors are ſuch as might naturally be expected in a work which never received the author's final corrections, and was not publiſhed till after his death.

With regard to the notes on the Diſcourſes and the General View, which are added in this edition, it is apprehended, that original authorities will be more ſatisfactory to every learned and inquiſitive reader, than the obſcure alluſions, or the bare aſſertions of the author. If I have committed any miſtakes, or made any improper references, let it be conſidered, that this edition was in the preſs, to be finiſhed with all poſſible expedition, when I undertook to reviſe it; that it was ſometimes extremely difficult to diſcover the ſource of thoſe paſſages which were cited in the margin; that many of them were aſcribed to authors in which they NEVER EXISTED; and that an error, when once admitted, was irreparable. I will therefore honeſtly acknowledge in the words of an old Grecian,

Πρηξας δ' ουκ επρηξα, και ουκ ετελεσσα τελεσσας·
Δρησας δ' ουκ εδρησ', ηνυσα δ' ουκ ανυσας. Theog. v. 947

Norfolk Street, Oct. 21, 1771 J. Robertſon.

CONTENTS

I. Advertiſement.

II. Preface to the firſt edition of the Diſcourſes concerning Government, printed in the year 1698.

III. Memoirs of the life of Algernon Sydney, including the paper which he delivered to the ſheriffs upon the ſcaffold on Tower-Hill, on Friday, Dec. 7, 1683, immediately before his execution.

IIII. Diſcourſes concerning Government, with hiſtorical notes, an index to the Diſcourſes, and a liſt of the authors cited in the notes.

V. Letters of A. Sydney, taken from Thurloe's State Papers.

VI. The Protector's Advice to A. Sydney, when he went to the king of Sweden in Poland.

VII. Letters of A. Sydney to his father, Robert Earl of Leiceſter, taken from the Sydney Papers.

VIII. His letters to Henry Savile, ambaſſador in France.

VIIII. His Trial.

X. His Apology in the day of his death.

XI. A General View of Government in Europe.

*** The letters taken from Thurloe's State Papers, the Protector's Advice, the General View of Government in Europe, and the notes to the Diſcourſes and the General View, are the new materials with which the editor has enlarged this Edition.

MEMOIRS OF THE LIFE OF A. SYDNEY

MEMOIRS OF THE LIFE OF A. SYDNEY.

Though there is nothing more uſeful and entertaining than the lives of great and excellent men, yet it often happens, that through the neglect of their friends and contemporaries, proper materials are wanting: and thus it is in the preſent caſe. One cannot but wonder, that the life of our author, who was a man of ſuch excellent abilities, ſuch a lover of liberty, and who died for the glorious cauſe, was never attempted by any of his intimate friends, and ſuch as were acquainted with the moſt remarkable paſſages concerning him. To retrieve this error as much as we can, we ſhall lay together in one view, what can now be gathered from various authors, who occaſionally mention the name and actions of colonel Sydney: and it is to be hoped, that this ſhort account, though very imperfect, may do ſome juſtice to the memory of that noble perſon, and give ſome inſtruction to the reader.

Algernon Sydney deſcended from a very antient and honourable family *, and was ſecond ſon of Robert earl of Leiceſter, by Dorothy, eldeſt daughter of Henry Piercy earl of Northumberland; to whom his lordſhip was married in the year 1618. The exact year when our author was born is not certain, but it was probably about the year 1622. His noble father was careful to give him a good education; and in 1632, when he went ambaſſador to Denmark, took his ſon with him; as he alſo did, when he was ambaſſador to the king of France in 1636: and the counteſs, his mother, in a letter † to the earl then at Paris, acquaints his lordſhip, that ſhe hears her ſon much commended by all that came from thence; and that one, who ſpake well of very few, ſaid, "he had a huge deal of wit, and much ſweetneſs of nature ‡." Upon the breaking out of the rebellion in Ireland, the latter end of the year 1641, he had a commiſſion for a troop of horſe in the regiment of his father, who was then lord-lieutenant of that kingdom; and he went over thither with his eldeſt brother Philip lord viſcount Liſle, diſtinguiſhing himſelf upon all occaſions with great gallantry againſt the rebels. In the year 1643, he had the king's permiſſion to return to England; for which purpoſe the earl his father gave him likewiſe a licence, dated at Oxford June 22, that year; but landing in Lancaſhire in Auguſt following, he was, by order of Parliament, brought up in cuſtody to London, where he was prevailed on to take a command under them: and on the 10th of May 1644, the earl of Mancheſter, major-general of ſeveral counties, conſtituted him captain of a troop of horſe in his own regiment. His brother the lord viſcount

* Collins's Peerage of England, and Memoirs of the lives and actions of the Sydneys.

† Collins's Letters and memorials of ſtate, vol. ii. p. 445.

‡ This ſweetneſs of nature (with a huge deal of wit) appears remarkably in the portrait of him, which was painted at Bruſſels in the year 1663, yet at Penſhurſt; and made, whatever ſome have thought, an eſſential part of his noble diſpoſition.

viſcount Liſle, being ſoon after appointed lieutenant-general of Ireland, and general of the forces there, gave him the command of a regiment of horſe to ſerve in the expedition thither: and it appears by the MS. journal * of the earl his father, that he was likewiſe lieutenant-general of the horſe in Ireland, and governor of Dublin; and that before he went into that kingdom, he had the government of Chicheſter, and was in the battle at York, and ſeveral other engagements †. In the ſame journal the earl writes as follows; "On the 8th of April 1647, early in the "morning, the houſe of commons being then thin, and few of my ſon's "friends preſent, it was moved by Mr. Glyn the recorder, that colonel "Jones ſhould be made governor of Dublin in chief, and not deputy-"governor to Algernon Sydney; pretending that Jones would not go, "unleſs he might be governor, which was not true, Jones having "accepted of the place of deputy-governor from the committee at Derby-"houſe, who had alſo appointed the Lord Liſle to commiſſion his brother "Algernon to be governor of Dublin, which he had done before he went "into Munſter. This motion of the recorder was ſeconded by old Sir "Henry Vane, who pretended that his conſcience moved him to be of "opinion, that ſince the houſe had thought proper to recal the lord "Liſle, it was not fit to let his brother, Algernon Sydney, remain "governor of ſo important a place as Dublin. Sir William Armyn and "others, oppoſed this motion, alledging, that if they had uſed one "brother ill, they ought not to do injuſtice to the other, who had ſo "well deſerved of them. But it was carried againſt him, and the govern-"ment was conferred on Jones. After which reſolution, it was moved, "that ſome recompence might be given to Algernon Sydney, according "to his merit; to which the houſe aſſented without oppoſition." And on the 7th of May, colonel Sydney had the thanks of the Houſe for his good ſervices in Ireland ‡; and was afterwards made governor of Dover. In January 1648, he was nominated one of king Charles's judges ‖, though he did not ſit among them. What his reaſons were for declining this, we know not. 'Tis manifeſt that he was, both by inclination and principle, a zealous republican; and, on that account, a violent enemy to Oliver Cromwell §, when he aſſumed to himſelf the government, to which, as well as to that of Richard, his ſucceſſor, he was abſolutely irreconcileable. But, upon the reſignation of Richard, the long parliament being reſtored in May 1659, and having paſſed a declaration, "to "ſecure the liberty and property of the people, both as men and chriſ-"tians,

* Collins's Memoirs, p. 150.

† Colonel *Sydney* alſo, ſon to the Earl of *Leiceſter*, charged with much gallantry at the head of my Lord of *Mancheſter*'s regiment of horſe, and came off with much honour, though with many wounds, the true badges of his honour; and was ſent away afterward to London for cure of his wounds.

The Parliamentary Chronicle, part 3. p. 273.

‡ Whitelocke's Memorials, p. 246. Edit. 1732.

‖ Our authority for this article is taken from Echard's hiſtory of England, p. 675 and 697.

§ Whitelocke, p. 678.

" tians, and that without a ſingle perſon, kingſhip, or houſe of lords, " and to uphold the magiſtracy and the miniſtry," he adhered to them; and was appointed one of the council of ſtate, with the lord Fairfax, Bradſhaw, Sir Henry Vane, general Ludlow, Sir Arthur Haſelrig, Fleetwood, Lambert, col. Henry Marten *, Mr. Thomas Challoner, Mr. Thomas Scot, Mr. Henry Neville †, Mr. Wallop, and others. On the 5th

* Within two days after this diſcourſe from Mr. *Fiennes*, Mr. *Hyde* walking between the parliament houſe and *Weſtminſter*, in the church-yard met with *Harry Marten*, with whom he lived very familiarly; and ſpeaking together about the proceedings of the houſe, *Marten* told him, that he would undo himſelf by his *adhering* to the court; to which he replied, that he had no *relation* to the court, and was only concerned to maintain the government and preſerve the law: and then told him, he could not conceive what he propoſed to himſelf, for he did not think him to be of the opinion or nature with thoſe men who governed the houſe; and aſked him what he thought of ſuch and ſuch men; and he very frankly anſwered, he thought them knaves, and that when they had done as much as they intended to do, they ſhould be uſed as they had uſed others. The other preſſed him to ſay what he deſired; to which, after a little pauſe, he very roundly anſwered, *I do not think one man wiſe enough to govern us all:* which was the firſt word he had ever heard any man ſpeak to that purpoſe; and would, without doubt, if it had then been communicated or attempted, been the moſt abhorred by the whole nation of any deſign that could be mentioned: and yet it appears it had even ſo early [1640 or 1641] entered into the hearts of ſome deſperate perſons; that gentleman being at that time poſſeſſed of a very great fortune, and having great credit in his county.

The life of Edward Earl of Clarendon, part i. p. 81. octavo edit.

The colonel was author of divers curious tracts; and was alſo a principal promoter of the publiſhing of " The firſt Century of ſcandalous malignant prieſts," " The King's " Cabinet opened," and other ſtate tracts. See his character in A. Wood's Athenae Oxonienſes, and in Biſhop Kennet's hiſtorical regiſter; but drawn in bitterneſs of wrath and anger.

† *Henry Neville*, ſecond ſon of Sir *Hen. Neville* of *Billingbeare* in *Berks*, was educated at *Oxford*. In the beginning of the civil war, he travelled into *Italy* and other countries, whereby he advanced himſelf much in the knowledge of modern languages and men; and returning in 1645 or thereabouts, became Recruiter in the *Long* Parliament for *Abingdon* in *Berkſhire*, at which time he was very intimate with *Harry Marten*, *Tho. Chaloner*, *Tho. Scot*, *James Harrington*, and other zealous commonwealths men. In Nov. 1651, he was elected one of the *Council* of *State*, being then a favourite of *Oliver*; but when he ſaw that perſon gaped after the government by a ſingle perſon, he left him, was out of his favour, and acted little during his government. In 1658 he was elected Burgeſs for *Reading* to ſerve in *Richard*'s Parliament; and when that perſon was depoſed, and the *Long* Parliament ſhortly after reſtored, he was again elected one of the *Council* of *State*.—He was a great *Rota*-man, was one of the chief perſons of *James Harrington*'s club of commonwealths men, to inſtil their principles into others, he being eſteemed to be a man of good parts, and a well-bred gentleman. " *The Commonwealth of Oceana*," at its firſt appearance, was greedily bought up, and coming into the hands of *Tho. Hobbes* of *Malmeſbury*, he would often ſay, that *Harry Neville* had a finger in that pye, and thoſe that knew them both were of the ſame opinion. By that book, and both their ſmart diſcourſes and inculcations daily in Coffee-houſes, they obtained many proſelytes. In 1659, in the beginning of Mich. term, they had every night a meeting at the then *Turk's Head*, in *New palace yard*, *Weſtminſter*, called *Miles*'s Coffee-houſe, to which place their Diſciples and *Virtuoſi* would commonly repair: and their diſcourſes about government and ordering of a Commonwealth, *were the moſt ingenious and ſmart that ever were heard, the arguments in the Parliament Houſe being but flat to thoſe.* They had a balloting box, and balloted how things ſhould be carried, by way of *Tentamens*; which not being uſed or known in *England* before, on that account, the room every evening was very full. Beſides the author and *Harry Neville*, who were the prime men of this club, were *Cyriac Skinner*, a Merchant's ſon of *London*, an ingenious

5th of June he was likewiſe nominated, with Sir Robert Honeywood and Bulſtrode Whitelocke Eſq; to go commiſſioners to the Sound, in order to mediate a peace between the kings of Sweden and Denmark*. But Mr. Whitelocke was not willing to undertake this ſervice, eſpecially being joined with thoſe, who, he knew, would expect precedency of him who had been formerly ambaſſador extraordinary to Sweden alone; and therefore

ingenious young gentleman, and ſcholar to *John Milton*, which *Skinner* ſometimes held the chair; Major *John Wildman*, *Charles Wolſely* of *Staffordſhire*, *Roger Coke*, *William Poultney*, (afterwards a knight) who ſometimes held the chair; *John Hoſkyns*, *John Aubrey*, *Maximilian Pettie* of *Tetſworth* in *Oxfordſhire*, a very able man in theſe matters, and who had more than once turned the Council-board of *O. Cromwell*; *Michael Mallet*, *Philip Carteret* of the Iſle of *Guernſey*, *Francis Cradock*, a Merchant, *Henry Ford*, Major *Venner*, *Thomas Marriet* of *Warwickſhire*, *Henry Croone*, Phyſician, *Edward Bagſhaw*, of *Chriſt Church*, and *Robert Wood* of *Lincoln* College Oxford; *James Aderne*, then or ſoon after a divine, with many others; beſides auditors and antagoniſts of note. Dr. *William Petty* was a Rota-man. The doctrine was very taking, and the more, as there was no probability of the *King*'s return. The greateſt of the Parliament men hated this deſign of rotation and balloting, *as being againſt their power*. Eight or ten were for it, of which number *Harry Neville* was one, who propoſed it to the houſe, and made it out to the members thereof, *that except they embraced that way of government they would be ruined.* The model of it was, that the third part of the Senate or Houſe ſhould rote out by ballot every year, ſo that every third year the ſaid Senate would be wholly altered. No magiſtrate was to continue above three years, and all to be choſen *by ballot*: than which choice nothing could be invented more fair and impartial, as was then thought, though oppoſed by many for ſeveral reaſons. This club of Commonwealths men laſted till about *Feb.* 21, 1659; at which time the ſecluded members being reſtored by General *Monke*, all their models vaniſhed.—After the Reſtoration he abſconded for a time; but being ſeized, he was among others impriſoned, though ſoon after ſet at liberty.

Among various publications, there is a curious book of his, in octavo, intitled, "*Plato Redivivus*, or a Dialogue concerning government, wherein, by obſervations drawn from other kingdoms and ſtates, both antient and modern, an endeavour is uſed to diſcover the preſent politic diſtemper of our own, *with the remedies.*" It came out firſt in the month of *October* 1680, againſt the ſitting of the Parliament, was very much bought up by the members thereof, and *admired*. Soon after, in the year 1681, it was republiſhed with additions. In that book he ſays, "As for *our* Hiſtory, it will not be forgotten. One of thoſe, who was in employment from the year 40 to 60, hath written the hiſtory of thoſe twenty years, a perſon of good learning and elocution; and though he be now dead, yet his executors are very unwilling to publiſh it ſo ſoon, and to rub a ſore that is not yet healed. But the ſtory is written *with great truth and impartiality*, though the author was engaged both in councils and arms for the Parliament."——*Reader*, ſhouldſt thou be poſſeſſed of *ſuch* a hiſtory, beſtow it upon the *Public*.

* The Committee of Safety having diſpatched a meſſenger to our fleet in the Sound before the election of the Council of ſtate, to acquaint them with the reſtitution of the Parliament, the officers of the ſeveral ſhips aſſembled, and ſent an acknowledgement of their authority, with all poſſible demonſtrations of ſatisfaction. Notwithſtanding which, *being highly ſenſible of how great importance the ſea-affairs are to this nation*, we ordered ſix frigates to be equipped with all diligence, and gave the command of them to Lawſon, making him at the ſame time vice-admiral of the fleet. And this we did, as well to prevent an invaſion from Flanders, with which the Cavalier party threatened us, as to balance the power of Montague's party, who we knew was no friend to the commonwealth. We treated alſo with myn heer Nieuport, ambaſſador from the States of Holland, that a good correſpondence might be maintained between the two Commonwealths, and that an accord might be made between the two kings of Denmark and Sweden, who were then enemies, by the interpoſition of the two States; who agreeing upon equitable terms, might be able to impoſe them on the refuſer. And this we were in hopes to accompliſh the rather, becauſe neither

fore he endeavoured to excuſe himſelf by reaſon of his old-age and infirmities: and accordingly Mr. Thomas Boone was appointed in his room. The three *plenipotentiaries* ſet out for the Sound in July following, and arrived at *Elſineur* on the 21ſt of that month; where they were attended by admiral Montagu, afterwards earl of Sandwich, who, in proſpect of a revolution in favour of Charles II. to whom he was ſecretly engaged, reſolved to return to England the month following with the whole fleet. Colonel Sydney, who was averſe to that reſolution, wrote to the Council of State from Copenhagen, to complain of the admiral's conduct in that point. His letters to his father, printed from the Sydney papers, and thoſe written by him in conjunction with the other plenipotentiaries, publiſhed among ſecretary Thurloe's ſtate papers, give us a diſtinct account of his negociations.

As things ſoon after were evidently tending to the reſtoration of Charles II. colonel Sydney wrote thus in the poſtſcript of one of thoſe letters to his father, "I doe not ſay any thing of my owne intentions, "in relation unto the changes that are fallen out already, or the others "that are dayly expected. The truth is, I knowe them not; the buſi- "neſſe *is too difficult to iudge of at this diſtance*; eſpecially, not knowing "what will be in my power or choice. If I doe not receaue newe orders, "I ſhall returne ſpeedily home, and ſhall then followe that way which "your lordſhip ſhall command and my beſt friends aduiſe, as farre as I "can, without breaking the rules of honour or conſcience; which I am "ſure will neuer be expected from me by your lordſhip, nor thoes whoes "opinions I conſider. While I am heare, I ſerue England, and will, "with as much care and diligence as I can, endeauour to aduance its in- "tereſts, and followe the orders of thoes that gouerne it. I reſerue the "determination of other points to councells upon the place."

In another letter, dated at Stockholm, June 16, 1660, he writes, 'I 'am now at the utmoſt point of my iourney northward, and have 'nothing more in my thoughts, then to returne into England with as 'much expedition as I can, according to the liberty granted unto my 'colleage and me by the councell of ſtate. We could not think it at all 'reaſonable, to leaue the work in which wee were employed, when wee 'ſawe a certainety of accompliſhing it within a ſhort time, unleſſe wee 'had receaued a poſitiue command: now the peace is concluded, I think 'we

the Dutch nor we pretended to any more than a freedom of paſſing and repaſſing the Sound, which could not well be if the command of it were in the hands of either of thoſe princes. The Dutch ambaſſador ſeemed very deſirous to finiſh the treaty, but by ſeveral demands which he made in the behalf of their merchants, delayed it ſo long, that our agent in Holland had already concluded an agreement with the States, whereby the two commonwealths became engaged *to compel that king that ſhould refuſe to accept of the conditions which they thought juſt and reaſonable*. In order to put this reſolution in execution, the States of Holland appointed their plenipotentiaries, and we on our part did the ſame, ſending thither colonel Algernon Sydney, Sir Robert Honywood, and one Mr. Boone, a merchant, to that end.

Memoirs of Edmund Ludlow, fol. edit. p. 254.

'we may very well iuſtify making uſe of that conceſſion. I am heare 'alone: my colleague intended to make the ſame iourney, but the gout 'confined him unto his bed. I looke upon all the powers granted unto 'us, as extinguiſhed by the comming in of the king, and doe not take 'upon me to act any thing as a publique miniſter, except it be giuing 'notice unto the crownes of Sweden and Denmark, of the reſtitution of 'the auncient gouernment in England, and the proclaiming of the king. 'Vpon this occaſion I accept of a publique audience, which is heare 'offered unto me; I ſhould haue auoided it upon all other occaſions. I 'am detained heare ſomme dayes longer then I did expect; the queene 'and ſenate hauing bin out of towne when I arriued heare.—I doe not 'at all knowe in what condition I am theare [in England], nor what 'effects I ſhall find of generall Monk his expreſſions of kindneſſe towards 'me, and his remembrance of the auncient friendſhip that was between 'us; but the lord Fleetwoods letters to the ſenate and priuate perſons 'here, mention diſcourſes that he makes much to my aduantage. I doe 'receaue neither more nor leſſe ciuility heare then is ordinary, unleſſe 'the excuſes I receaue for receauing noe more may deſerue that name. 'I am in priuate told, they feare to offend the king by any extraordi-'nary expreſſions towards me: your lordſhip may eaſily imagine how 'powerfull that conſideration will be, when thoes in my condition can 'pretend to noe ciuilityes upon any other account, but as they are 'reſpects unto theire ſuperiors and maſters.'

In his letter of July 22, 1660, he obſerves, that he and his collegue, had the day before, taken their leave of the king of Denmark; and that himſelf was taking his way by Hamburgh and Holland; but did not yet very well know, in what place he ſhould ſtay, until he heard further from England. "I did hope," ſays he, to his father, "that upon ſuch "occaſions as thoes that haue lately befallen me, your lordſhip would "haue bin pleaſed to ſend me ſomme commands and adviſes how to "diſpoſe of myſelf, more particularly then by ſuch a one as I had ſent "ouer with letters."

His father's anſwer to him, dated at London, Aug. 30, the ſame year, was as follows*:

'Diſuſe of writing, hath made it uneaſy to me; age makes it hard; 'and the weakneſs of ſight and hand makes it almoſt impoſſible. This 'may excuſe me to every body, and particularly to you, who have not 'invited me much unto it; but rather, have given me cauſe to think, 'that you were willing to ſave me the labour of writing, and yourſelf 'the trouble of reading my letters. For after you had left me ſick, ſoli-'tary, and ſad at Penſhurſt; and you had reſolved to undertake the 'employment, wherein you have lately been, you neither came to give 'a farewel, nor did ſo much as ſend one to me, but only writ a wrang-'ling letter or two about money, etc. And though, both before and 'after

* Familiar Letters written by John late earl of Rocheſter, and other perſons of honour and quality.

'after your going out of England, you writ to divers other perſons, the
'firſt letter that I received from you, was dated, as I remember, the
'13th of September; the ſecond in November; wherein you take notice
'of your mother's death: and, if there was one more, that was all,
'until Mr. Sterry came; who made ſuch haſte from Penſhurſt, that
'coming very late at night, he would not ſtay to dine the next day, nor
'to give me time to write. It is true, that ſince the change of affairs
'here and of your condition there, your letters have been more frequent.
'And if I had not thought my ſilence better, both for you and myſelf,
'I would have written more than once or twice to you. But though for
'ſome reaſons I did forbear, I failed not to deſire others to write unto
'you; and with their own, to convey the beſt advice, that my little
'intelligence and weak judgment could afford; particularly, not to
'expect new authorities or orders from hence; nor to ſtay in any of
'the places of your negotiation; not to come into England; much leſs,
'to expect a ſhip to be ſent unto you; or to think, that an account was
'or could be expected of you here, unleſs it were of matters very different
'from your tranſactions there: that it would be beſt for you, preſently
'to diveſt yourſelf of the character of a public miniſter; to diſmiſs all
'your train; and to retire into ſome ſafe place, not very near nor very
'far from England, that you might hear from your friends ſometimes.
'And for this I adviſed Hamburgh, where I hear you are, by your man
'Powel, or by them that have received letters from you, with preſents
'of wine and fiſh, which I do not reproach nor envy. Your laſt letter
'to me had no date of time or place; but by another at the ſame time to
'Sir John Temple, of the 28th of July, as I remember, ſent by Mr.
'Miſſenden, I gueſs that mine was of the ſame date. By thoſe that I
'have had, I perceive, that you have been miſadvertiſed; for though I
'meet with no effects nor marks of diſpleaſure, yet I find no ſuch
'tokens or fruits of favour, as may give me either power or credit for
'thoſe undertakings and good offices, which perhaps you expect of me.
'And now I am again upon the point of retiring to my poor habitation;
'having for myſelf no other deſign, than to paſs the ſmall remainder of
'my days innocently and quietly; and, if it pleaſes God, to be gathered
'in peace to my fathers. And concerning you, what to reſolve in
'myſelf, or what to adviſe you, truly I know not; for you muſt give
'me leave to remember, of how little weight my opinions and counſels
'have been with you, and how unkindly and unfriendly you have
'rejected thoſe exhortations and admonitions, which, in much affection
'and kindneſs, I have given you upon many occaſions, and in almoſt
'every thing, from the higheſt to the loweſt, that hath concerned you:
'and this you may think ſufficient to diſcourage me from putting my
'advices into the like danger. Yet ſomewhat I will ſay: and firſt, I
'think it unfit, and perhaps as yet unſafe, for you to come into Eng-
'land; for I believe Powell hath told you, that he heard, when he was
'here, that you were likely to be excepted out of the general act of

'pardon and oblivion: and though I know not what you have done or 'ſaid here or there, yet I have ſeveral ways heard, that there is as ill an 'opinion of you, as of any, even of thoſe that condemned the late king. 'And when I thought there was no other exception to you, than your 'being of the other party, I ſpoke to the general in your behalf, who 'told me, that very ill offices had been done you; but he would aſſiſt 'you as much as juſtly he could. And I intended then alſo to ſpeak 'to ſomebody elſe; you may gueſs whom I mean; but ſince that, I 'have heard ſuch things of you, that in the doubtfulneſs only of their 'being true, no man will open his mouth for you. I will tell you ſome 'paſſages, and you ſhall do well to clear yourſelf of them. It is ſaid, 'that the univerſity of Copenhagen brought their album unto you, 'deſiring you to write ſomething therein; and that you did "ſcribere "in albo" theſe words,

"——Manus haec inimica tyrannis
"Enſe petit placidam ſub libertate quietem."

'and put your name to it. This cannot but be publicly known, 'if it be true. It is alſo ſaid, that a miniſter, who hath married a lady 'Laurence, here at Chelſea, but now dwelling at Copenhagen, being 'there in company with you, ſaid, "I think you were none of the late "king's judges, nor guilty of his death," meaning our king. "*Guilty!* "ſaid you, *do you call that guilt*? why, it was the juſteſt and braveſt* "*action, that ever was done in England, or any where elſe,*" with other 'words to the ſame effect. It is ſaid alſo, that you having heard of a 'deſign to ſeize upon you, or to cauſe you to be taken priſoner, you 'took notice of it to the king of Denmark himſelf, and ſaid, "I hear "there

[* *Guilty! ſaid you, do you call that guilt?*]

——I confeſſe, this were a worke, and I hope it will be found fit for the divine pen of that ſecond Saint *Peeter* the Lord Biſhop of *London*, who followed this martyred King, and King of Martyrs to that block whereon his ever bleſſed head made a ſacred croſſe, and the neareſt to that whereon the celeſtial King dyed, ſince the day of his glorious ſufferings.

Had that great and eminent Chronologer of Saints, *Baronius*, lived in theſe days, ſurely the life and death, the acts and paſſions of this ever bleſſed Saint, had alone furniſhed his eloquent pen with heavenly worke, to have exceeded both in weight and glory, all that canonized catalogue of Saints triumphant, which for good uſe and imitation he hath brought to light. For what malice is there yet remaining amongſt his accurſed enemies, to deny, that in life and death, this King ran in the paths, and as neare as mortall man could doe, to the example and marke of Jeſus Chriſt, the authour and finiſher of his faith and ſufferings?

How he was betrayed and purſued, is witneſſed by and in the yeares 1639, 40, 41, 42, 43, 44, and 45. How he fled from one ſinfull nation to another wicked people, is recorded to the living infamy of the ever trayterous *Scots* in the year 46. How he was ſold at a price by the ſaid accurſed *Scots*, to his cruel and cauſeleſſe enemies the Jewiſh *Engliſh*, is regiſtred in the year 47. How he was toſſed between *Herod* the damned *Independent*, and *Pilate* the deviliſh *Preſbyterian*; and between them againe delivered up to the tumults of the ſaid accurſed *Jews* to be crucified, is manifeſted in the year 48. How he was arraigned, condemned, buffeted, ſpit upon, and crucified by the conſpiring ſkum of his own rebellious people, not once opening a mouthful of revenge againſt them, is yet written againſt them in letters of that ſacred bloud, which from his bleſſed neck haſted over his divine head to advance

" there is a deſign to ſeize upon me; but who is it that hath that deſign? " *Eſt ce nôtre bandit?*" by which you are underſtood, to mean the king. ' Beſides this, it is reported, that you have been heard to ſay many ' ſcornful and contemptuous things of the king's perſon and family, ' which, unleſs you can juſtify yourſelf, will hardly be forgiven or ' forgotten;

advance his everlaſting title CHARLES OF BRITAINE KING OF THE JEWS. And this was engraven upon the even adamantine hearts of his bitter adverſaries on that moſt ſorrowful day to us, but ever bleſſed to his majeſty, Tueſday Jan. 30, 1648. How they parted his rayment amongſt them, and caſt lots upon his veſture, is witneſſed by that furrier, to whom they ſold his Majeſties rich ſables gowne, becauſe they would not injure their own profit. Thus farre his ſufferings went along with his Saviour's, etc. etc. etc.

The Royal Legacies of CHARLES the firſt of that name, of Great Britaine, France, and Ireland, KING and MARTYR, to his perſecutors and murderers. Being a ſhort paraphraſe upon his Majeſties moſt chriſtian and moſt charitable ſpeech, delivered immediately before his *tranſlation*. Dedicated to his Majeſties loyal and diſconſolate ſubjects. Printed in the year 1649——in quarto.

——But now *the glory is departed from* (our) *Iſrael, the arke of God is taken*, and how is *England become a widow?* made a prey unto cruell people and ſkilfull to deſtroy, who dayly force and proſtitute her unto their wicked purpoſes. For theſe things let *England* (and every true hearted Engliſhman) ſay, *I weep, mine eye, mine eye runneth downe with water, becauſe the Comforter* (KING CHARLES) *that ſhould relieve my ſoul is farre from me. The breath* of *our Noſtrils, the Anointed of the Lord*, etc.; the *life* of our *Religion*, of our *Lawes*, of our *Liberties*, is taken from us; the *Image* of God's power in ſupreme authority, indemnity, and inviolability is taken from us; our *Phiſician*, our *nurſing Father*, our *Comforter*, our *Protectour* is taken from us, and, for our ſins, *was taken* in their pits; ſo that now we want the *wings* of his *protection* among theſe *Heathen* among whom we live; we are now made very ſlaves unto the worſt of Heathen, a people without God, without faith, without law, without rule, without reaſon, without humanity, without all theſe, and whoſe unruly *will* only, is unto all theſe, etc. etc. etc.

The Subjects ſorrow. Or Lamentations upon the death of Britaines *Joſiah*, KING CHARLES, moſt unjuſtly and cruelly *put to death* by his own people, before his Royal Palace Whitehall, Jan. 30, 1648. Expreſſed in a Sermon upon Lam. 4. 20. Wherein the divine and royal prerogatives, perſonal virtues, and theological graces of his late Majeſty are briefly delivered: And that his Majeſty was taken away in God's mercy unto himſelfe, and for the certaine puniſhment of theſe Kingdomes, from the parallel *is clearly proved*. London, printed in the yeare 1649—in quarto.

——The perſon that was now murthered, was not the Lord of Glory, but a glorious Lord, Chriſt's own Vicar, his Lieutenant and Vicegerent here on earth, within his dominions. And therefore by all lawes divine and humane, he was privileged from any puniſhment that could be inflicted by men. Albeit he was as inferiour to Chriſt as man is unto God, the creature unto the immortall Creator; yet was his privilege of inviolability farre more clear than was Chriſt's. For Chriſt was not a temporal Prince, his Kingdome was not of this world, and therefore when he vouchſafed to come into the world, and to become the ſonne of man, he did ſubject himſelfe unto the law; hee, who only could chooſe when to be borne, made choiſe to be borne at that time when there was a decree for taxing all the world, that ſo ſoone as he was borne he might be inrolled a ſubject unto Caeſar; he lived as a ſubject, payed tribute unto Caeſar; he ſubmitted unto Pilat's juriſdiction, acknowledging that hee had power given him from above. But our gracious Soveraigne was well knowne to be a temporall Prince, a free Monarch, and their undoubted Soveraigne, to whom they did all owe and had ſworne allegiance; and therefore he could not be judged by any power on earth. He diſclaimed their authority, as he well might; for they had no power at all over any, much leſſe over him. And what power they uſurped, was not *de ſuper*, as *Pilat's*, but *de ſubter*, from beneath, even from the angell

'forgotten; for ſuch perſonal offences make deeper impreſſions, than 'public actions, either of war or treaty. Here is a reſident, as he calls 'himſelf, of the king of Denmark, whoſe name I hear is Pedcombe; 'he hath viſited me, and offered his readineſs to give you any aſſiſtance 'in his power or credit, with the ambaſſador Mr. Alfield, who was then 'expected,

of the bottomleſſe pit, whoſe name is *Abaddon*; for as he ſeeks the deſtruction of all men, ſo eſpecially of Kings, becauſe by their government peace is preſerved, juſtice executed, and religion maintained. But from above they had no power; for God never gave unto the people power over their King: as is evident by Scripture, by the law of nature and nations, by the knowne lawes of England, by cleare and undeniable reaſons, and by the conſtant doctrine and practice of the true, antient, and Catholic church. And yet thoſe monſtrous traytors, have ſacrilegiouſly invaded God's throne, and uſurped his office, whoſe peculiar it is to be judge of Kings; and ſo have ventured to try, judge, condemne, and execute their King, in deſpite of all law, reaſon, religion, nature and God himſelfe, etc. etc. etc.

The Martyrdome of King Charles. Or his conformity with Chriſt in his ſufferings. In a ſermon on 1 Cor. 2. 8. [Which none of the princes of this world knew: for had they knowne it, they would not have crucified the Lord of Glory.] Preached at Bredah, before his Majeſty of Great Britaine and the Princeſſe of Orange. By the Biſhop of Downe, June $\frac{3}{13}$ 1649. Chriſtiani nunquam ſunt inventi Caſſiani. Tertull. Hage, Printed 1649—in quarto.

Extracts of Reſtoration, and anniverſary thirtieth of January ſermons, might have been likewiſe added; but theſe ſhall ſuffice.

The *Parliament* of *England*, elected by the *People* whom they repreſent, and by them truſted and authorized for the *Common good*, having long contended againſt *Tyranny*, and to procure the *well-being* of thoſe whom they ſerve, and to remove *oppreſſion*, *arbitrary power*, and all *oppoſition* to the *Peace* and *Freedom* of the *Nation*; do humbly and thankfully acknowledge the bleſſing of Almighty God upon their weak endeavors, and the hearty aſſiſtance of the well-affected in this work, whereby the enemies thereunto, both public and ſecret, are become unable for the preſent, to hinder the perfecting thereof.

And to prevent their power to revive *Tyranny*, *Injuſtice*, *War*, and all our former evils, the *Parliament* have been neceſſitated to the late *Alterations* in the Government, and to that *Settlement*, which they judge moſt conducible to the honor of God, and the good of the *Nation*, the onely end and duty of all their labors.

And that this may appear the more clearly and generally, to the ſatisfaction of all who are concerned in it, they have thought fit to declare and publiſh the *Grounds* of their *Proceedings*.

They ſuppoſe it will not be denyed, that the firſt *Inſtitution* of the *Office* of a *King* in this Nation, was by *agreement* of the *People*; who choſe one to that office for the *protection* and *good* of them who choſe him, and for their better *government*, according to ſuch *laws* as they did conſent unto. And let thoſe who have obſerved our Stories, recollect how very few have performed the *truſt* of that *office* with righteouſneſs and due care of their *Subjects* good. And how many have made it their ſtudy and labor, to ſatisfie their particular *Ambition* and *Power*, with high preſſures and miſeries upon their *Subjects*; and with what horrid prodigality of *Chriſtian blood*, upon punctilio's of their own honor, perſonal titles and dictates. And in the whole line of them, how far hath the late *King* exceeded all his *Predeceſſors*, in the deſtruction of thoſe whom they were bound to preſerve; and in ſtead of ſpreading his Protection to all, ſcarce permitting any to eſcape the violence of his fury.

To manifeſt this *truth*, it will not be improper to take a view of ſome paſſages in his reign, wherein he much further out-went all his *Forefathers* in evil, than any example can be found of puniſhment, etc. etc. etc.

A Declaration of the Parliament of England, expreſſing the grounds of their late Proceedings, and of ſettling the preſent government in the way of A Free State. London, printed Mar. 22, 1648—in quarto.

The

'expected, and is now arrived here, and hath had his firſt audience. I 'have not ſeen Mr. Pedcombe ſince; but within a few days, I will put 'him in mind of his profeſſion of friendſhip to you, and try what he 'can or will do. Sir Robert Honeywood is alſo come hither; and as I 'hear, the king is graciouſly pleaſed to admit him to his preſence; 'which

The Parliament likewiſe pulled down the King's Statues at the Weſt end of Paul's and in the Royal Exchange, cauſing the following inſcription to be placed in the nich of the latter,

EXIT · TYRANUS · REGVM · VLTIMVS
ANNO · LIBERTATIS · ANGLIAE · RESTITUTAE · PRIMO
ANNO · DOM · MDCXXXXVIII · JAN · XXX

May it pleaſe your Lordſhip, my Lord Preſident, and this High Court, erected for the moſt comprehenſive, impartial, and glorious piece of juſtice, that ever was acted and executed upon the theatre of *England*, for the trying and judging of *Charles Stuart*, whom God in his wrath gave to be a king to this Nation, and will, I truſt, in great love for his notorious prevarications and blood-guiltineſs, take him away from us; He that hath been the original of all injuſtice, and the principal author of more miſchiefs to the free-born People of this Nation, than the beſt Arithmetician can well enumerate, ſtands now to give an account of his Stewardſhip, and to receive the good of Juſtice, for all the evil of his injuſtice and cruelty. Had he ten thouſand lives, they could not all ſatisfie for the numerous, horrid, barbarous Maſſacres of Myriades and legions of innocent perſons, which by his commands, commiſſions, and procurements (or at leaſt all the world muſt needs ſay, which he might have prevented; and he that ſuffers any man to be killed, when he may ſave his life without danger of his own, is a murtherer) have been cruelly ſlain, and inhumanely murthered, in this renowned *Albion*; *Anglia* hath been made an *Aceldama*, and her younger ſiſter *Ireland* a land of ire and miſery. But now to diſſect the charge, etc. etc. etc.

King Charles his Caſe. Or an appeal to all rational men concerning his tryal at the High Court of Juſtice. Being for the moſt part, that which was intended to have been delivered at the bar, if the king had pleaded to the Charge, and put himſelf upon a fair tryal, etc. By John Cook of Gray's Inn, Barreſter. London, printed 1649—in quarto.

———The premiſes from firſt to laſt conſidered, that doctrine which prerogativeth Kings above the ſtroke of human juſtice, upon the account of their being unaccountable unto men for whatſoever they do, (which the Parliament taketh notice in their declaration of March 17, 1648, to have been the late King's aſſertion) appears to be very extravagant, and eccentrical to all principles both of Reaſon and Religion. *Such an unaccountable Officer*, (as the ſaid declaration well expreſſeth it) *were a ſtrange monſter to be permitted by mankind.* For if the main ground of erecting public adminiſtrations of juſtice and courts of humane judicature, in all polities and ſtates whatſoever, be, both in reaſon and religion, to ſecure and protect thoſe, who live juſtly and peaceably, againſt the violence and injuſtice of oppreſſours and unjuſt men; it muſt needs be contrary unto both, to exempt ſuch perſons from the juriſdiction of theſe courts and adminiſtrations, who have always the greateſt opportunities and temptations, and, for the moſt part, the ſtrongeſt bent of diſpoſition and will, to practice ſuch unrighteouſneſſe and oppreſſion, etc. etc. etc.

The Obſtructours of juſtice. Or a defence of the honourable ſentence paſſed upon the late King by the High Court of juſtice. Oppoſed chiefly to "The ſerious and faithful repreſentation and vindication of ſome of the Miniſters of London." As alſo to "The humble addreſſe of Dr. Hammond, to His Excellencie and councel of Warre," etc. By John Goodwin. London, 1649—in quarto.

———Hactenus, quod initio inſtitueram, ut meorum civium facta egregia contra inſanam et lividiſſimam furentis ſophiſtae rabiem, et domi et foris defenderem, juſque Populi commune ab injuſto regum dominatu aſſererem, non id quidem regum odio, ſed tyrannorum, Deo bene juvante videor jam mihi abſolviſſe: neque ullum ſine reſponſo vel argumentum, vel exemplum, vel teſtimonium ab adverſario allatum ſciens praetermiſi, quod quidem firmitatis in ſe quicquam, aut probationis vim ullam habere videretur: in alteram fortaſſe

partem

'which will be ſomewhat the better for you; becauſe then the excep-
'tions againſt your employment and negociation, wherein you were
'collegues, will be removed, and you will have no more to anſwer for,
'than your own particular behaviour. I believe Sir Robert Honeywood
'will be induſtrious enough, to procure ſatisfaction to the merchants in
'the

partem in culpae propior, quòd ſaepiuſculè ineptiis quoque ejus, et argutiis tritiſſimis, quaſi argumentis, reſpondendo, id iis tribuiſſe videar, quo dignae non erant. Unum reſtat, et fortaſſe maximum, ut vos quoque, *o Cives*, adverſarium hunc veſtrum ipſi refutetis; quod nulla ratione video poſſe fieri, niſi omnium maledicta veſtris optimè factis exuperare perpetuò contendatis. Vota veſtra et preces ardentiſſimas Deus, cum ſervitutis haud uno genere oppreſſi, ad eum confugiſtis, benignè exaudiit. Quae duo in vita hominum mala ſanè maxima ſunt, et virtuti damnoſiſſima, tyrannis et ſuperſtitio, iis, *vos gentium primos*, glorioſè liberavit; eam animi magnitudinem vobis injecit, ut devictum armis veſtris et dedititium regem judicio inclyto judicare, et condemnatum punire primi mortalium non dubitaretis. *Poſt hoc facinus tam illuſtre, nihil humile aut anguſtum, nihil non magnum atque excelſum et cogitare et facere debebetis.* Quam laudem ut aſſequamini, hac ſola incedendum eſt via, ſi ut hoſtes bello domuiſtis, ita ambitionem, avaritiam, opes, et ſecundarum rerum corruptelas, quae ſubigunt caeteras gentes hominum, oſtenderitis vos etiam inermes media in pace omnium mortalium fortiſſimè debellare; ſi, quam in repellenda ſervitute fortitudinem praeſtitiſtis, eam in libertate conſervanda juſtitiam, temperantiam, moderationem praeſtiteritis. His ſolis argumentis et teſtimoniis evincere poteſtis, non eſſe vos illos, quos hic probriis inſequitur, *perduelles*, *latrones*, *ſicarios*, *parricidias*, *fanaticos*; non vos ambitionis aut alieni invadendi ſtudio, non ſeditione, aut pravis ullis cupiditatibus, non amentia aut furore percitos Regem trucidaſſe, ſed amore libertatis, religionis, juſtitiae, honeſtatis, patriae denique charitate accenſos, *tyrannum puniiſſe.*——

Joannis Miltoni, Angli, pro Populo Anglicano, Defenſio, contra Claudii, alias Salmaſii Defenſionem Regiam. Londini, typis Du Gardianis, A. D. 1651, in folio, quarto, duodecimo.

——Now therefore, Right honourable! when I look upon You, and behold You more highly intruſted than Kings, and far more nobly adorned upon a better ground than they were, with all the Rights, Intereſts, and Privileges of the people; when I conſider how God hath wreſted the Sword out of their hands, and placed it in yours for our protection, with the conſervation of our Peace and Liberties, and made You the happy inſtruments of freeing Us from the Yoke of Kings; when I call to minde, how nobly You aſſerted the Rights of England againſt Domeſtick Tyrannie, upon the neck of the late King, and laid the foundation of our freedom upon the higheſt act of juſtice; (when Juſtice ſat more glorioufly inthroned than ever it did before on any earthly Tribunal) I am raiſed with more than ordinarie confidence, that the ſame ſpirit of Juſtice, which acted You in Your former atchievements for our eſtabliſhment by land againſt him and his poſteritie, will carry You on, as You have begun, to vindicate thoſe rights by ſea againſt all forein violations and invaſions. It is your honor, that God hath made You founders of the moſt famous and potent Republic this day in the world; and Your felicitie, that all Your enemies have no other ground of quarrel, but that You are a Republic: for though theſe *Netherlanders* ſpeak it not out in words, yet they have often told You ſo in behaviour, etc.

Of the Dominion, or Ownerſhip of the Sea, two books. Written at firſt in Latin, and intituled, "Mare Clauſum, ſeu De Dominio Maris." By John Selden. Tranſlated into Engliſh; and ſet forth with *ſome additional Evidences* and Diſcourſes, by Marchamont Nedham. Publiſhed *by ſpecial command.* London, printed by William Du Gard, 1652, in folio.

Marchamont Nedham was author of divers curious and very ſcarce tracts; and of that celebrated Journal, intitled "*Mercurius Politicus*, compriſing the Summe of all intelligence; with the affairs and deſigns now on foot in the three nations of *England*, *Ireland*, and *Scotland*. In defence of the Commonwealth, and for information of the people." It commenced June 9, 1649, went forth once a week, ended April 1660, and was publiſhed by authority of the Council of State.

'the buſineſs of money; wherein he will have the aſſiſtance of Sir John 'Temple, to whom I refer you for that and ſome other things. I have 'little to ſay to your complaints of your ſiſter Strangford's unequal 'returns to your affection and kindneſs; but that I am ſorry for it, and 'that you are well enough ſerved for beſtowing ſo much of your care 'where it was not due, and neglecting them to whom it was due; and 'I hope you will be wiſer hereafter. She and her huſband have not yet 'paid the thouſand pounds, whereof you are to have your part of my 'gift; for ſo, I think, you are to underſtand it, though your mother 'deſired it: and if, for the payment thereof, your being in England, 'or in ſome place not far off, be neceſſary, as ſome pretend, for the 'ſealing of ſome writings, I think that and other reaſons ſufficient to 'perſuade you to ſtay a while where you are, that you may hear fre-'quently from your friends and they from you. I am wholly againſt 'your going into Italy as yet, till more may be known of your con-'dition, which, for the preſent, is hard; and I confeſs that I do not yet 'ſee any more than this, that either you muſt live in exile, or very 'privately here and perhaps not ſafely; for though the Bill of indemnity 'be *lately paſſed*; yet *if* there be any particular and great diſpleaſure 'againſt you, as I fear there is, you may feel the effects thereof from 'the higher powers, and receive affronts from the inferior. Therefore 'you were beſt to ſtay at Hamburgh, which for a northern ſituation, 'is a good place and healthful. I will help you as much as I can, in 'diſcovering and informing you of what concerns you; though, as I 'began, ſo I muſt end, with telling you, that writing is now grown 'troubleſome to your affectionate Leiceſter.'

But colonel Sydney did not continue long at Hamburgh; for he was at Francfort upon the Main, on the 8th of September 1660, from whence he wrote to his father, being determined then for Italy; and we find him at

The act for the Militia being paſſed, the command of all the forces and garriſons ſettled on Monk, and the fleet in his power in conjunction with colonel Montague; the pretended parliament authorized their Council of State to provide for the public ſafety on all emergencies, and to diſpoſe affairs as they ſhould think fit till the meeting of the next Parliament: which being done, and the Houſe ready to paſs the act for their own diſſolution; Mr. Crew, who had been as forward as any man in beginning and carrying on the war againſt the late King, moved, that before they diſſolved themſelves, they would bear their witneſs againſt the horrid murder, as he called it, of the King. This unexpected motion prevailed with many then preſent to deny their concurrence to that act againſt the King, though not to reflect in the ſame manner on thoſe who had been concerned in it: And one of them concluding his diſcourſe with proteſting, that he had neither Hand nor Heart in that affair; Mr. Thomas Scot, who had been ſo much deluded by the hypocriſy of Monk, as I have already related, in abhorrence of that baſe ſpirit, ſaid, that though he knew not where to hide his head at that time, yet he durſt not refuſe to own, that not only his hand but his heart alſo was in it: and after he had pronounced divers reaſons to prove the juſtice of it, he concluded, that he ſhould deſire no greater honor in this world, than that the following inſcription ſhould be engraved on his tomb, *Here lieth one who had a hand and a heart in the execution of Charles Stuart late King of England.*

Memoirs of Edmund Ludlow, p. 329.

See alſo Toland's life of Milton, Edit. 2. p. 84, and 245, in the Notes.

at Rome in November following, whence he wrote likewiſe to his father, on the 19th of that month.

'I think the councell given me by all my friends to keepe out of 'England for a while, doth too clearly appeare to have been good, by 'the uſage my companions have already receaved, and perhaps will be 'yet further verified by what they will find. Nothing doth ſeeme more 'certaine to me, then that I muſt either have procured my ſafety, by 'ſuch meanes as ſir Arthur Haſelrigge is ſayed to have uſed *; or runne 'the fortune of ſomme others, whoe have ſhewed themſelves more 'reſolute. I hope my being here, will in a ſhort time ſhewe, that the 'place was not ill choſen, and that beſides the liberty and quiet which is 'generally granted to all perſons here, I may be admitted into that 'company, the knowledge of which will very well recompence my 'iourney. I was extreamly unwilling to ſtay in Hamburgh or any place 'in Germany, finding myſelf too apt to fall too deepe into melancholly, 'if I have neither buſineſſe nor company to divert me; and I have ſuch 'an averſion to the converſation and entertainments of that country, 'that if I had ſtayed in it, I muſt have lived as a hermite, though in a 'populous citty. I am here well enough at eaſe, and believe I may 'continue ſoe. Unleſſe ſomme boddy from the court of England doth 'think it worth theire paines to diſturbe me, I ſee nothing likely to ariſe 'here to trouble me. I have already viſited ſeverall cardinalls. To 'morrowe I intend to pay the ſame reſpect to the cardinal Ghigi, nephew 'to the pope. He hath allready granted me the liberty of waiting upon 'him, which was ſignified unto me by an other eminent perſon of the 'ſame robe and degree. They are all generally civill, and I aſk no 'more.'

His correſpondence with his father during his ſtay at Rome, will be ſeen in the letters taken from the Sydney papers.

Several of his friends having been importunate with him for his return to England, he wrote the following letter †; but the want of a date makes the particular time of writing it uncertain.

* *May* 1660, Sir *Arthur Haſelrigge*, one of thoſe who were eſteemed to be ſo maliciouſly active in oppoſition to his Majeſty's government, as to be afterwards excepted in the act of indemnity from any condition of pardon, had lately come to General *Monk*, when he perceived the Revolution to haſten towards the Reſtoration of the *King*, and expoſtulated with him about it, in reference to the ſecurity of his own condition. The general was unwilling to make him deſperate, becauſe he had at that time a Regiment of horſe and a Regiment of foot in the garriſons of *Newcaſtle*, *Tinmouth*, *Berwick*, and *Carliſle*, under his government; and therefore told him, *if he would quietly give up his command, and retire to his houſe, he would endeavour to ſecure him in his life and eſtate, and doubted not to effect it.* This being made known at a following conference by the Houſe of Commons, was juſtified with great modeſty by the Duke of *Albemarle* in the houſe of Peers, and his life was thereupon pardoned in the act; and a ſmall time after his eſtate alſo was, at the mediation of the Duke, granted to his heir, a man averſe to his father's diſloyal principles, Sir *Arthur* himſelf a while after his impriſonment dying of a fever in the *Tower*.

Biſhop Kennet's hiſt. reg. p. 136.

† Familiar letters of John, late earl of Rocheſter, etc.

'Sir,

'I am ſorry I cannot in all things conform myſelf to the advices of my 'friends. If theirs had any joint concernment with mine, I ſhould wil- 'lingly ſubmit my intereſt to theirs; but when I alone am intereſted, 'and they only adviſe me to come over as ſoon as the act of indemnity 'is paſſed, becauſe they think it is beſt for me, I cannot wholly lay aſide 'my own judgment and choice. "I confeſs, we are naturally inclined to 'delight in our own country, and I have a particular love to mine. I 'hope I have given ſome teſtimony of it. I think that being exiled from 'it is a great evil, and would redeem myſelf from it with the loſs of a 'great deal of my blood. But when that country of mine, which uſed 'to be eſteemed a paradiſe, is now like to be made a ſtage of injury; 'the liberty which we hoped to eſtabliſh oppreſſed; luxury and lewdneſs 'ſet up in its height, inſtead of the piety, virtue, ſobriety, and modeſty, 'which we hoped, God, by our hands, would have introduced; the 'beſt of our nation made a prey to the worſt; the parliament, court, 'and army, corrupted; the people enſlaved; all things vendible; no 'man ſafe, but by ſuch evil and infamous means, as flattery and bribery; 'what joy can I have in my own country in this condition? Is it a 'pleaſure to ſee, that all I love in the world is ſold and deſtroyed? Shall 'I renounce all my old principles, learn the vile court-arts, and make 'my peace by bribing ſome of them? Shall their corruption and vice be 'my ſafety? Ah! no; better is a life among ſtrangers, than in my 'own country upon ſuch conditions. Whilſt I live, I will endeavour to 'preſerve my liberty; or at leaſt, not conſent to the deſtroying of it. I 'hope I ſhall die in the ſame principles in which I have lived, and will 'live no longer than they can preſerve me. I have in my life been 'guilty of many follies; *but*, as I think, *of no meanneſs*. I will not 'blot and defile that which is paſt, by endeavouring to provide for the 'future. I have ever had in my mind, that when God ſhould caſt me 'into ſuch a condition, as that I cannot ſave my life but by doing an 'indecent thing, he ſhews me the time is come wherein I ſhould 'reſign it: and when I cannot live in my own country but by ſuch 'means as are worſe than dying in it, I think he ſhews me, I ought to 'keep myſelf out of it. Let them pleaſe themſelves with making the 'king glorious, who think a whole people may juſtly be ſacrificed for 'the intereſt and pleaſure of one man, and a few of his followers; let 'them rejoice in their ſubtilty, who, by betraying the former powers, 'have gained the favour of this, not only preſerved, but advanced 'themſelves in theſe dangerous changes. Nevertheleſs, perhaps they 'may find, the king's glory is their ſhame; his plenty the people's 'miſery; and that the gaining of an office or a little money, is a poor 'reward for deſtroying a nation, * *which, if it were preſerved in liberty* 'and

[* *Which, if it were preſerved in Liberty and Virtue*, etc.]

And now that I am fallen unawares into ſuch profound reflections on the periods of government, and the flouriſhing and decay of *Liberty* and *Letters*; I can't be contented to

'*and virtue, would truly be the moſt glorious in the world*; and that others 'may find, they have with much pains purchaſed their own ſhame and 'miſery, a dear price paid for that which is not worth keeping, nor 'the life that is accompanied with it. The honour of Engliſh parlia-'ments hath ever been in making the nation glorious and happy, not in 'ſelling and deſtroying the intereſt of it, to ſatisfy the luſts of one man. 'Miſerable nation *! that from ſo great a height of glory, is fallen into 'the

conſider merely of the inchantment which wrought ſo powerfully upon Mankind, when firſt this univerſal monarchy was eſtabliſhed. I muſt wonder ſtill more, when I conſider how after the extinction of this *Caeſarian* and *Claudian* family, and a ſhort interval of Princes raiſed and deſtroyed with much diſorder and public ruin, the *Romans* ſhould regain their periſhing Dominion and retrieve their ſinking ſtate, by an after race of wiſe and able Princes ſucceſſively adopted, and taken from a private State to rule the Empire of the world. They were men who not only poſſeſſed the military virtues, and ſupported that ſort of Diſcipline in the higheſt degree; *but as they ſought the intereſt of the World, they did what was in their power to reſtore* LIBERTY, *and raiſe again the periſhing* ARTS, *and decayed* VIRTVE *of Mankind. But the ſeaſon was now paſt! The fatal form of government was become too natural; and the world, which had bent under it, and was become ſlaviſh and dependent, had neither power nor will to help itſelf.* The only deliverance it could expect, was from the mercileſs hands of the *Barbarians*, and a total diſſolution of that enormous Empire and deſpotic power, which the beſt hands could not preſerve from being deſtructive to human nature. For even Barbarity and Gothiciſm were already entered into arts, e'er the Savages had made any impreſſion on the Empire. All the advantage which a fortuitous and almoſt miraculous ſucceſſion of good Princes could procure their highly favoured Arts and Sciences, was no more than to preſerve, during their own time, thoſe periſhing Remains which had for a while with difficulty ſubſiſted, after the decline of LIBERTY. *Not a Statue, not a Medal, not a tolerable piece of architecture could ſhew itſelf afterwards. Philoſophy, Wit and Learning, in which ſome of theſe good Princes had themſelves been ſo renown'd, fell with them. And ignorance and darkneſs overſpread the world, and fitted it for the Chaos and Ruin which enſued.*

The Earl of Shaftesbury, in his "Advice to an Author."

From their railleries of this kind *on the barbarity and miſery of our Iſland*, one cannot help reflecting, *on the ſurprizing fate and revolutions of Kingdoms.* How Rome, once the miſtreſs of the World, the ſeat of arts, empire and glory, *now lies ſunk in ſloth, ignorance and poverty; enſlaved to the moſt cruel, as well as to the moſt contemptible of Tyrants, Superſtition and religious impoſture.* While this remote Country, evidently the jeſt and contempt of the polite Romans, *is become the happy ſeat of liberty, plenty, and letters; flouriſhing in all the arts and refinements of civil life; yet running, perhaps, the ſame courſe which Rome itſelf had run before it*; from virtuous induſtry to wealth; from wealth to luxury; from luxury to an impatience of diſcipline and corruption of morals; till by a total degeneracy and loſs of virtue, being grown ripe for deſtruction, it falls a prey at laſt to ſome hardy oppreſſor, and with the loſs of *Liberty*, loſing every thing elſe that is valuable, ſinks gradually again into its original barbarity.

Dr. Middleton, in "his Life of Cicero," vol. I. p. 494.

[* *Miſerable Nation! that from ſo great a height of glory*, etc.]

The *Engliſh Republicans took things exactly right*; and that in order to the accompliſhing of a deſign that would take up all their life time, *(for ſuch ſort of men ought never to conceive mean ones*, after the execution whereof they muſt be put to the trouble of projecting anew, or live lazily and be expoſed to conſpiracies againſt them) *they thought it would be their beſt way to begin with the ruin of the United Provinces*, which lay next their coaſts, and flouriſhed in trade above any other Country in the World; *and when once they had effected this, they were in hopes they ſhould eaſily remove any obſtacle in their way to attain the Dominion of the Seas:* inſomuch, that if the fortune of war ſhould favour their firſt enterprizes, I do not think they have any deſign to make a peace with a Nation they have a mind utterly to deſtroy,

'the moſt deſpicable condition in the world; of having all its good de-
'pending upon the breath and will of the vileſt perſons in it! cheated
'and

deſtroy, and to whom they will propoſe ſuch hard terms, that upon the refuſal of them, you will at laſt find them prepared to make terrible deſcents in divers parts of *Zealand* and *North Holland*, to break the banks and the other dikes, that keep the flat Country from being drowned. There needs no more than this ſort of blood-letting to make *Amſterdam* and all the other Cities deſolate: For it would ſignifie little to them to ſeize the *Brill* or ſome other place, ſeeing their deſign is to deſtroy the Trade of *Holland*, and to transfer it into their own Country; and it would be of little importance to them that the King of *Spain* ſhould recover the *Seven provinces*; that the Merchants of *Amſterdam* ſhould remove to *Antwerp*, and the manufacturers of *Leyden* and *Harlem* to *Ghent* and *Bruges*: for it would require many years to ſettle things there, and the Engliſh would have opportunity enough to hinder them from having any neceſſary materials but ſuch as paſſed through their hands, and their manufactures to be tranſported any where but in *Engliſh* bottoms: for it would be very eaſy for them to ſtop up the mouths of the ports, and to go up the *Scheld*, even in ſight of *Antwerp*, from whence nothing muſt come out but will be taken by their ſhips. By this means, and the notion I have of their deſigns, *no Nation in the world, in a few years time, would have any Seamen, Ships, or ſkill in Maritime affairs, beſides themſelves.* For *Holland* being intirely ruined, the *Dutch* muſt ſerve on board their fleets, and all the Shipwrights, Sailmakers and Ropemakers, would be obliged to go and earn their living in the Sea-port towns of *England*; and this they would be the more inclined to do, becauſe there is more wages given there, and People live better. When this noble and rich Province, which within the extent of leſs than five and twenty leagues, contains eighteen large towns and four hundred villages, of which the *Hague* is the fineſt in the world, ſhall be reduced to this ſad plight, it is then likely that the *Engliſh* will turn their arms againſt *Denmark*, in order to ſeize the paſſage of the *Sundt*, either by main force or rather ſome treaty, by which they will be willing to give the King more than the profit it brought him, but at the ſame time will oblige *Norway* to ſell their wood to no other nation but the *Engliſh*. The cities of *Embden*, *Brémen*, *Hamburgh*, *Lubec*, all the Coaſt of the *Baltick*, and the whole Kingdom of *Sweden*, durſt appear no longer at Sea, *but under Engliſh colours*; and perhaps *the formidable Republic* will be content, in conſideration of her Commiſſions granted to them, to receive certain duties from the goods ſhe allows them in her name to tranſport, only along theſe northern parts. They will in time ſend a more powerful fleet to block up the river of *Liſbon*; while another ſails to *Braſil*, *Guinea*, and the *Eaſt Indies*; with a deſign to ſpare the *Portugueſe* merchants and the *Eaſt India* companies, the labour of tranſporting the Sugars, Silks, Spices and other commodities they come thither for, into *Europe*: and if *Spain* pretends to ſay any thing againſt them, they will, without any more ado, ſeize the *Straits Mouth* and ſend an hundred and fifty ſhips of war into the *Mediterranean*, out of which they can very eaſily drive the naval force of the other Potentates of *Europe*, were they all joined together againſt them.

The *Engliſh* having in this manner uſurped the Dominion of the ſeas, the trade of all the *European* nations, and part of the reſt of the world; *all the Earth muſt ſubmit to them, work for no body but them, and they will, from time to time, come into their ports, and ſweep away all their treaſure: every thing that is rare and all the conveniences of life, produced either by art or nature, will be reſerved for England, which will be the only Country that can purchaſe them or poſſeſs them of her own.* For, as we ſee, that ſince the ſettling of trade in *Holland*, that province is become the Store-houſe for Linen, Woolen, and all ſorts of manufactures, though there is neither flax, wool, nor, in any manner, any other commodities which they work up, grows there, but they muſt have them from other Countries; ſo every thing that *England* wants at this time will abound there, and the beſt Artificers will flock thither, inſomuch, that if they would have any fine linen or good cloth for wear, in another Country, the flax and wool was to be ſent to be manufactured in *England*. Pray conſider then, what vaſt wealth this Country muſt acquire in leſs than fifty years? And how miſerable muſt the reſt of *Europe* be, ſince they can tranſport nothing by Sea from one nation to another but in *Engliſh* ſhips? They will always have money to receive in all the ports they come at, and never leave any of their own there. What the *Engliſh* want they

'and ſold by them they truſted! infamous traffick, equal almoſt in guilt 'to that of Judas! In all preceding ages, parliaments have been the 'palace

will make compenſation for by way of exchange, or readily ſend over into *England*, upon the ſcore of the manufactures there they have occaſion for; as we have ſeen the *Dutch Eaſt India Company* have pearl and precious ſtones, in return for ſome wares ſent into thoſe Countries, which they got fitted out at *Amſterdam*, and then ſold at very dear rates in thoſe places from whence they were firſt brought, and where there is not perfection of workmanſhip as there is with us. Hundreds of ſhips richly laden will daily put into the *Thames* and other ports of this fortunate Iſland; and the General can ſcarce ever loſe the ſight of his forces, which, I may ſay, return every evening to lye at home; for they ſtay no longer in foreign parts than to refreſh themſelves, to vend their goods, and to take in new Cargoes. They will be no ways ſolicitous of making conqueſts by land, that they may ſave the charge of maintaining them, ſeeing they are ſure of reaping the profit of them; neither will they plant any Colonies and eaſe their Country, as populous as it is grown, of the vaſt multitudes that are in it, becauſe the whole produce of *Europe* is conſumed there, and their great naval trade renders their ſtores inexhauſtible. In the mean time all the neighbouring Kingdoms will, in a manner, become like the Sea-coaſts of *America*, where our *Europeans* trade; there will be only tillage and ſome coarſe manufactures for plain ware and to ſerve people's neceſſities only in the Heart of the Country, and the maritime towns will be no other than the Granaries and Magazines of *England*.

There is nothing in all the Conqueſts of *Alexander* and the pomp of all the *Roman* Empire, *that comes near this maritime dominion* which I have repreſented to you. And this ſeems to be ſo very feaſible, that if *Holland* be once ruined, I am afraid it will be too late to prevent it. And therefore I would have all the Potentates of *Europe* take it to heart in time; for if they do not quickly put an end to the war they are ingaged in on the Contenent, we ſhall run the riſque, in a few ages, of becoming perfect *Barbarians*. For the *Engliſh*, by the means of their navigation, *will transfer all the politeneſs of Europe, together with its plenty, power and conveniences of life, into their own Country.*

Extract of a letter from M. Sorbiere to M. de Courcelles, at Amſterdam; dated Orange, July 1, 1652: Concerning the deſigns of the Engliſh in the War againſt the Dutch.

We have done this right unto our Monarchy.

We are now to ſay ſomething of that Government which ſucceeded it. *I confeſs it was never ſettled, nor put abſolutely into the hands of the People.* And yet if you reſpect its infancy and beginning, it outwent in warlike atchievements all other Commonwealths. I lay before me the exploits of *Sparta*, *Athens*, *Carthage*, and *Venice*; and know that the Venetians, Switzers, and United Provinces, at this day being contemptible for territories, are thoſe only that appear fitteſt matches for the greateſt Empires, namely the Turk, the German, and the Spaniſh houſe of *Auſtria*, which Monarchs had overborne large Kingdoms and Provinces, and could meet none able to meaſure ſwords with them, till theſe little Countries, *having vindicated their Liberty*, took them in hand, and not ſo much by their valour (for *Venice* was never celebrated for valour, and the *United Provinces* had no extraordinary name for it) but by the excellency of their Government and prudent carriage, have been able to force them to become peaceable and quiet neighbours, and keep themſelves within narrower bounds than otherwiſe they would willingly have done. I know alſo, *Rome, the onely miſtreſs of the World*, was juſtly celebrated for large conqueſts. And yet none of theſe States gave ſuch ſtarts, and made ſuch acqueſts at their riſe, as our Engliſh Commonwealth. *Certainly ſo many advantages conduced to its greatneſs and increaſe; and at its firſt appearing, ſo large were its proper Territories, that it may well be affirmed, never was Commonwealth, in that reſpect, laid on ſo large and ſtrong a foundation as that then had: and if in our conceit, we ſhould give it an anſwerable growth, we could not aſſign it leſs than the whole globe at laſt for its portion.*

At firſt, if you will judge by the affections of the People, it had not the hundredth part of *England* itſelf, and was to go through difficulties that would have confounded any but a free State. But how quickly had it brought the Nation to ſomewhat a better underſtanding,

'palace of our liberty; the ſure defenders of the oppreſſed: they, who 'formerly could bridle kings, and keep the balance equal between them 'and

ing, and a fair way of ſettlement? So that there are ſome that queſtion, whether any natural Prince of *England* had ever been aſſiſted on any occaſion, with ſo great forces, ſo ſuddenly and with ſuch alacrity raiſed, as that was at *Worceſter?* And on the other ſide, how few went over to the King of the Scots, though looked on as a rightful Prince, deſerves conſideration.

It lived not *out a Luſtre*, yet conquered *Scotland (introducing more Liberty and greater Priviledges than they had before) Ireland* and ſeveral other ſmaller Iſlands; *made other nations feel its force, as the French and Portugals; and was going on in ſuch a career of action as was not to be ſtopt by a human power.* This Government began a war with the Dutch, which it had ended with an *abſolute* conqueſt or fallen in the attempt; and after this probably it would have entered on more honorable enterprizes, and not ſuffered the Nation to grow effeminate by eaſe and vice. In a word, it had brought in an inſtant, the Nation to a full glory and ſuch a ſplendor, as caſt a darkneſs, as is affirmed by ſome, on the greateſt actions of former times. This is certain, that the neighbouring States trembled at its ſudden and prodigious greatneſs; and remote Potentates did court and ſeek a good underſtanding from its hands, and its diſſolution brought no ordinary content to thoſe that had cauſe to fear it. The Agent from the *Stuarts*, as a late writer reports, at the firſt appearance of this *Free State*, urged the *United Provinces*, "That if *England* were free, it would be formidable to them, not only by interrupting their fiſhing and all other maritime advantages, but by robbing them of traffick as they had done the Venetians; and not only ſo, but give law to all Chriſtendom, by reaſon of the commodiouſneſs of its harbours and multitudes of its ſhips."

This Commonwealth, how imperfect ſoever in itſelf, was yet too ſtrong in all likelyhood for any human power or ſtrength to break. *It was only capable of being ruined by God and itſelf.* It was indeed quickly diſſolved and gone; yet had it this to boaſt of, that having all along attempted the boldeſt enterpriſes, it met with no ill ſucceſs in any of its great undertakings while it was in being. But

——Laetis hunc numina rebus,
Creſcendi poſuere modum——

Where is the ſtability of human glory? Who now will not believe, that the firmeſt, the moſt ſplendid and moſt illuſtrious fabrick that is human, is capable of diſſolution? God in whoſe hands all Nations are but as clay in the hands of a potter, and to whom the ſtrongeſt and proudeſt Governments are as contemptible as the loweſt and meaneſt, if not more, undertook this Commonwealth, and laid it in the duſt with thoſe other glorious States of *Rome*, *Athens*, *Sparta*, *Carthage*.

——Valet ima ſummis
Mutare, et inſignem attenuat Deus
Obſcura promens—— ——

I will make no apology for what I have delivered of this Government; for as I think, *I have ſpoken the truth and that moderately*, having rejected much matter that offered itſelf to my hands on this occaſion. I never received any particular advantage by that Government, nor ſo much as ſubſcribed the engagement; and therefore I thought I might with the greater freedom and ingenuity ſay thus much of it, which yet I ſubmit to better judgments.

It remains now, that I ſhould ſpeak ſomething of the preſent Government; but the Petition of Advice coming out ſince I had finiſhed this diſcourſe, I am forced to put it off till I ſhall have another opportunity, which, if ever it happen, I ſhall, God aſſiſting, cheerfully ſet on it, and in a particular manner diſcourſe thereof.

A Diſcourſe on the national excellencies of England,
By R. H. London printed 1658. in duod.

I ſhall conclude with two material paſſages, which, though they relate not immediately to our Author, or his own particular concerns, yet in regard they happened during his public employment, and conſequently fell more eſpecially under his cogniſance, it will not be amiſs here to ſubjoin.

The

'and the people, are now become inſtruments of all our oppreſſions; and 'a ſword in his hand to deſtroy us; they themſelves led by a few 'intereſted

The firſt was this. Before the war broke forth between the *States of England* and the *Dutch*, the *Hollanders* ſent over three Ambaſſadors in order to an accommodation; but they returning *re infectâ*, the *Dutch* ſent away a *Plenipotentiary* to offer peace upon much milder terms, or at leaſt to gain more time.

But this *Plenipotentiary* could not make ſuch haſte, but that the *Parliament* had procured a copy of their Inſtructions in *Holland*, which were delivered by our author to his kinſman that was with him to tranſlate for the *Council* to view, before the ſaid *Plenipotentiary* had taken ſhipping for *England*; and an anſwer to all he had in charge lay ready for him before he made his public entry into *London*.

In the next place, there came a perſon with a very ſumptuous train, pretending himſelf an Agent from the Prince of *Condé*, then in arms againſt Cardinal *Mazarin*. The *Parliament* miſtruſting him, ſet their inſtrument ſo buſily at work, that in four or five days they had procured intelligence from *Paris*, that he was a ſpy from K. *Charles*; whereupon, the very next morning, our author's kinſman was ſent to him with an order of *Councel*, commanding him to depart the kingdom within three days or expect the puniſhment of a ſpy.

By theſe two remarkable paſſages we may clearly diſcern *the induſtry and good intelligence of thoſe times.*

The Life of John Milton [by John Philips his nephew] prefixed to his Letters of State, printed 1694, in duod.

At a Committee of the Councell of State at Whitehall, Aug. 16, 1649. Ordered, that a Committee bee appointed, *to take into conſideration the buſineſſe of the coyne and the par betweene it and other nations; and how the coyne of this nation may bee kept from being carried out; and likewiſe to conſider of ſome meanes whereby the mint may be ſet to worke*; and they are to ſpeak with any perſons they think good about it.

The names of the Committee for the mint, Dec. 20, 1649.

The Lord Preſident Bradſhaw, Sir James Harrington, [who had the Chair] Sir Gilbert Pickering, Sir William Conſtable, Maſter Scot, Maſter Bond, Colonel Purefoy, Colonel Jones, Maſter Thomas Chaloner, Sir Henry Mildmay, Colonel Morley, Maſter Allen, Maſter Cornelius Holland, Maſter Neville; or any two of them.

——— The Council of State being willing to prevent the ſaid diſorders, were deſirous of having the Monie of this Commonwealth WELL COYNED; and therefore having ſeen the patterns of coyn made after a new invention [*the ſcrew preſs and mill*] by the ſaid *Blondeau*, and having treated by letters about the quantitie of pieces that could be coyned in a week and what they might coſt; the ſaid Council cauſed the ſaid *Blondeau*, the inventor of that way of coyning, to come [from *France*] to *London*, to treat with him by word of mouth, and to agree about the price of coyning the money of this Commonwealth after his way. He being then arrived at *London*, Sept. 3, 1649, the ſaid Council beſtowed on him forty pounds Sterling; and the late Mr. *Froſt*, then ſecretary to the ſaid Council, told him before witneſſes, that if the State could not agree with him about the price and that therefore he ſhould be neceſſitated to retire himſelf, the State would indemnifie him for his journie, both coming and returning, and for the time he ſhould have loſt, and would beſtow on him ſuch a preſent that he would return ſatisfied. A while after the ſaid Council of State ordered the Committee of the Council of State for the mint, to hear the ſaid *Blondeau*'s propoſition and report it.

The Committee for the mint accordingly took into conſideration, whether the ſaid *Blondeau* ſhould be admitted to coyn the monie of this Commonwealth; and having debated it, *they reſolved and approved that he ſhould be admitted thereunto, provided his coyn and his propoſition ſhould be advantageous to the State.*

Afterwards the ſaid Committee having ſeriouſly conſidered and examined all the circumſtances of the way of coyning propounded by the ſaid *Blondeau*; and having heard all the objections that could be alledged againſt it, both by the Maſter of the Mint or by any other of thoſe who appeared in the buiſneſs; upon debate of the whole, the Committee concluded and voted, *that the ſaid way of coyning propounded by the ſaid Blondeau, was better, more advantageous, and more* HONORABLE *for the State, than that which is uſed now in this Commonwealth.*

'interested persons, who are willing to buy offices for themselves, by the 'misery of the whole nation and the blood of the most worthy and 'eminent

The Master, the Officers, and the Workmen of the mint, told the Committee, it was not likely the said *Blondeau* had done himself the pieces sent by him to the Council of State. Besides, that it was an old invention which they themselves knew, and that such pieces were onely made for curiosity, with very long time and great expence, and that it was impossible that that way might bee used about the ordinary coyn which is thin. They desired, that the said *Blondeau* might be commanded to make a trial of his skill by making some other pieces, and that they would do as much as the said *Blondeau*. Therefore the said Committee ordered, both the said *Blondeau* and the said workmen, to make their patterns and propositions respectively; *and that hee that would make it with most advantage to the State should have the employment.*

At the time appointed, the workmen brought to the Committee som pieces made after the old way which is known to them, and some big pieces of silver stuffed within with copper; but they had drawn no propositions.

Likewise the said *Blondeau* brought in about 300 pieces, som half-crowns of the ordinary weight and bigness, som shillings, six pences, and som gold pieces, and presented his proposition; which having been reformed according to the pleasure of the said Committee, *it was received and accepted of by the whol Committee*, who ordered it to be reported to the Council of State, according to the order of the said Council.

The said Committee having then taken into consideration the big pieces of silver at the outside and *stuffed within* with copper, made with the engins at the Tower, and well understood, that the said pieces, becaus they are made of several pieces at the top one of another, will give no sound, so that a blinde man can easily discern that they are false; and having weighed the long time and great cost required for coyning of each piece, becaus they are made of four pieces, namely one of copper, and one of silver at the top, another underneath and one about, which ought to be adjusted and sodered together, besides several other fashions, which cost more than the price of the lawful pieces; having also considered the great and heavie engins and great number of tools and men required for making of one piece, the great charges for the engines and tools and several other things required for making of those counterfeited pieces; they acknowledged, that it would be enough to disswade any one from undertaking it, the rich not being willing and the poor being unable, and that though they should undertake it they could not do it without being discovered. Besides, that the mony coyned after the way of the said *Blondeau* was so thin, that it cannot be so counterfeited.

Whereupon it is observable, that the said workmen of the mint, although they made use of the great and heavie engins that are in the Tower; yet for making of some tools they had need of and for the other charges of coining about a *dozen* of pieces they made then for a pattern, have spent a hundred pound sterling, as hee that pretends to have laid out the money hath said before witnesses.

Afterwards, another order was given by the said Committee, and some time limited to the said workmen, to draw and present their proposition for coyning of the monie marked upon the thickness or edge, as that of the said *Blondeau* is. But after the expiration of the long time demanded by them, they brought such a proposition, that the said Committee having read it over and over, could not understand it nor the sense of it; and even those that brought it could not explain it: whereby it was apparent to the said Committee, that they were not able to make their proposition good, much less to coyn the mony after that way, which they avowed themselves before the said Committee. Yet they intreated the Committee to allow them the time of som months more, to finde, if possible, the new invention; and that the said *Blondeau*'s proposition should be communicated unto them, upon which they might frame their own. They further demanded, that the said *Blondeau* and the Graver [*Thomas Simon, the celebrated T. Simon*] should have order to bring in all the pieces made by the said *Blondeau* for a tryal, with the stamps or dices used for making them; all which was granted them upon that condition, that if within the time allowed them, they coulde finde out the means to coyn the monie after the said *Blondeau*'s way, and thereupon he should be sent back, he should be indemnified: which was agreed by all.

But

'eminent perſons in it. Deteſtable bribes, worſe than the oaths now in 'faſhion in this mercenary court! I mean to owe neither my life nor 'liberty

But they coulde never finde out the ſaid new invention for coyning the thin and weak pieces after that way with expedition requiſite. Yet for all that, they made their propoſitions, which are in the hands of the Chairman of the Committee; as are alſo the ſaid *Blondeau*'s propoſitions and patterns, about a year and a half ſince, to be reported by him to the Council of State, etc. etc. etc.

A moſt humble memorandum from *Peter Blondeau*. Concerning the offers by him made to this Commonwealth, for the coyning of the monie, *by a new invention not yet practiced in any State of the world*; the which will prevent counterfeiting, caſting, waſhing and clipping the ſame. Which coin ſhall be marked on both the flat ſides and about the thickneſs or the edge, of a like bigneſs and largeneſs as the ordinary coyn is; and will coſt no more than the ordinarie unequall coyn which is uſed now.

Maſter David Ramadge, Whitehall, June 14, 1651.

Theſe are to authoriſe you, to make ſome patterns as broad as a ſhilling, a half-crown, a twenty-ſhillings piece of gold, in a mill; and if you can do it, with letters about the edge or otherwayes, according to Queen Elizabeth's patterns of mill-money or any other modells or peeces you are to make; that ſo the Committee of the mint may ſee your ſeveral peeces, and thereupon conſider what is fitteſt to preſent to the Councell of State, *for the more handſome making of the monies for the* HONOR *of this Commonwealth.*

James Harrington
Tho. Chaloner

At the deſire of Sir James Harrington, and Mr. Thomas Chaloner, and others of the honorable Committee for the Mint, I [Thomas Violet] did write to Holland *for all the principal Coynes in Chriſtendom*; and did deliver many of them to the officers of the mint to make an aſſay of them: which ſeveral pieces of forrain gold and ſilver were aſſayed *in the preſence of the Committee of the mint*, they being there at the Tower ſeveral dayes to make theſe tryals, where I attended them. And I ſent into *Holland*, *France* and *Flanders* for all their ſeveral Placarts; and did procure the lawes and ordinances for regulating their reſpective mints, with the ſeveral ſtandards and weights for their coyns, gold or ſilver, to be tranſlated. And thereupon the Committee of the mint cauſed the principal of theſe forrain coynes to be ingraven, with the weight and fineneſs of every piece, according to the ſtandard of each mint, both gold and ſilver, what it ought to weigh; with a juſt calculation of the vallue what all the ſeveral ſpecies would make in the Tower of *London*, and the penny-weight and graines that everie ſuch forrain ſpecies or coin would make in the Tower of *London*, and what proportion our gold and ſilver held with the mint of *Flanders*, *France* and *Holland*. And this was exactly calculated by the officers of the mint and myſelf, in the year 1651 and 1652; and all the proceedings thereupon, after many months time, and the ſeveral coynes graven on copper plates, were delivered into the cuſtody of Sir. James Harrington, Chairman of that Committee, to report them unto the Hous. But the Parliament being diſſolved April 20, 1653, the act againſt the tranſporters of gold, *and all the proceedings concerning the regulation of the mint were ſtopped for that time.*

The above notes relating to the coin, have been taken from Thomas Violet's publications. More of this matter, with ſpecimens of *ſome* of the ELEGANT and very ſcarce *pattern-pieces* before mentioned, may be ſeen in "the works of Thomas Simon," publiſhed London 1753 in quarto, by that ingenious, diligent, faithful Engliſh Antiquary, the late Mr. George Vertue.

Cromwell having thruſt out the Parliament, his Maſters, Patrons, by his ſoldiers, as ſee a ſingular account of it in Whitelocke, p. 554, he thought proper, in the ſuite of his ambition, to coin money, following *exactly* the rules which had been inſtituted by the Committee of Parliament *in their wiſdom*, and employing the workmen *which they had formed*, but ſtamping on thoſe coins IMPUDENTLY his own effigies and arms.

Further, concerning the intended regulation of the Law, the Univerſities, Commerce, and the general ſcheme of civil government and views of this MASTER Parliament; the curious reader will conſult "Huſband's collections" 1643 in quarto, 1646 in folio, "Scobell's collections" in folio, and the other State papers of thoſe times.

'liberty to any ſuch means. When the innocence of my actions will not, 'protect me, I will ſtay away till the ſtorm be over-paſſed. In ſhort, where, 'Vane, Lambert, Haſelrigge cannot live in ſafety *, I cannot live at all. 'If I had been in England, I ſhould have expected a lodging with them; 'or though they may be the firſt, as being more eminent than I, I muſt 'expect to follow their example in ſuffering as I have been their com-'panion

[* *Where Vane, Lambert, Haſelrigge cannot live in ſafety*, etc.]

Aug. 21, 1660, the Act of indemnity was ſent from the *Lords* to the *Commons* with ſeveral alterations, to which the *Commons* were very unwilling to agree; for they had ſubjected twenty that were not the King's judges to be liable to ſuch pains and penalties not extending to life, as ſhould be inflicted by another act to be paſſed in this Parliament. Whereas the *Lords* finding the King's inclinations to tend towards the pardoning of all but ſuch as where his father's judges or otherwiſe actors in his murder, they diſagreed to that part of the act, as to all thoſe named by the *Commons*, except Sir *Arthur Haſelrigge*, Sir *Henry Vane*, Colonel *John Lambert*, who were eſteemed to be ſo maliciouſly active in oppoſition to his Majeſty's government, as to be excepted from any conditions of pardon. The *Commons* for ſome time adhered to their firſt reſolution, but after ſeveral conferences, they agreed with the *Lords* in all things except ſome little alterations in the frame of the act; *Vane* and *Lambert* were excepted, but *Haſelrigge* remained liable to ſuch pains, penalties and forfeiture, as ſhould be inflicted on him, not extending to life; and the reſt of thoſe put under the ſame qualifications by the *Commons* that were not of the King's judges, were made only with others incapable of offices.

Kennet's Hiſtorical Regiſter, p. 236.

Sir *Henry Vane*, whoſe blood ſeems to have been demanded by the peculiar vengeance of heaven, had been moſt deeply engaged in the darkeſt ſcenes of the late calamities, which he carried on with infinite ſubtlety and artifice, to the deception of incredible numbers in the nation; and though he cunningly kept himſelf from the impious court that condemned the King, it was ſufficiently known that none contributed more to the bringing him thither; and after, that none more zealouſly promoted the eſtabliſhment of the new Commonwealth, and his actions daily diſcovered ſo much of republican rancour, that it was impoſſible for him to live in quiet under any reſemblance of monarchy. So after the reſtoration, having been found tampering with ſome malecontents of the army and others, in order to freſh diſturbances, the government thought fit to confine him: and though he with *Lambert* was particularly excepted in the act of indemnity, *yet he found ſo much favour afterwards from the houſe of Commons in the ſame Parliament, that they petitioned the King, in which they were joined by the houſe of Peers, that he might yet be exempt from ſuffering the pains of death; to which, as his friends alledge, his Majeſty conſented. This was looked upon as a ſufficient ſecurity*; yet either upon the account of his own behaviour or that of his party or ſome private reſentment, the preſent houſe of Commons thought fit to addreſs the King to bring him, together with Colonel *John Lambert*, to their tryals. Accordingly June 4, 1662, they were both arraigned at the *King's bench* bar, before Sir *Robert Foſter*, Lord chief juſtice, and other judges; and Sir *Henry* indicted for imagining and compaſſing the death of the King, and for taking upon him and uſurping the government: and Colonel *Lambert* for levying war againſt the King in ſeveral parts of the kingdom. The carriage and behaviour of *Vane* was very extraordinary, for being charged by the King's council with a continued ſeries of treaſons, from the King's murder to the Reſtoration, without inſiſting upon the Rebellion with which they might have begun, he abſolutely denied they had any power to try him, and declared, "that neither the King's death, nor the members themſelves could diſſolve the Long Parliament, whereof he being one, no inferior court could call him in queſtion."—His whole behaviour was ſo aſſuming and inſolent, that the Court and King's council told him, that his own defence was a freſh charge againſt him and the higheſt evidence of his inward guilt, had there not been ſuch a cloud of witneſſes to prove the particulars.——The Jury after a very ſhort ſtay brought him in guilty of high treaſon. Colonel *Lambert's* behaviour was quite contrary, full of ſubmiſſion and diſcretion.———He was likewiſe condemned; but when he was to receive ſentence with Sir *Henry Vane*, he was by the King's favor reprieved at the bar, upon the report that the judges had given of his

'panion in acting. I am moſt in a maze at the miſtaken informations, 'that were ſent to me by my friends, full of expectations of favours and 'employments. Who can think that they who impriſon them would 'employ me, or ſuffer me to live when they are put to death? If I might 'live and be employed, can it be expected that I ſhould ſerve a govern-'ment that ſeeks ſuch deteſtable ways of eſtabliſhing itſelf? Ah! no; I 'have

ſubmiſſive and handſome deportment at his tryal: upon which he deſired the judges to return to his Majeſty his moſt humble thanks for his ſo unexpected mercy, which the judges ſaid might have been, *and was once thought to be extended to Sir Henr*, if his forwardneſs and contemptuous behaviour had not precluded the way to it. The Colonel was confined during life in the Iſle of *Guernſey*, where he continued a patient and diſcreet priſoner for above thirty years.

Archdeacon Echard and Biſhop Kennet; ſee the Hiſt. Regiſter, p. 704, 5.

And ſince it hath pleaſed God, who ſeparated me from the womb to the knowledge and ſervice of the goſpel of his Son, to ſeparate me alſo to this hard and difficult ſervice at this time, and *to ſingle me out to the defence and juſtification of this his cauſe*, I could not conſent by any words or action of mine, that the innocent blood that hath been ſhed in the defence of it throughout the whole war, *the guilt and moral evil of which muſt and does certainly lye ſomewhere, did lye at my door, or at theirs, that have been the faithful adherers to this cauſe.* This is with ſuch evidence upon my heart, that I am moſt freely and chearfully willing to put the greateſt ſeal to it I am capable, which is, *the pouring out of my very blood in witneſs to it*; which is all I ſhall need ſay in this place and at this time, having ſpoken at large to it in my defence at my tryal, intending to have ſaid more the laſt day, as what I thought was reaſonable for *arreſt of judgment*, but I was not permitted then to ſpeak it; both which may, with time and God's providence, come to public view. And I muſt ſtill aſſert, that I remain wholly unſatisfied, that the courſe of proceedings againſt me at my tryal *were according to law*; but that I was run upon and deſtroyed, contrary to right and the liberties of *Magna Charta*, under the form only of juſtice, which I leave to God to decide, who is the judge of the whole world, and to clear my innocency. In the mean time I beſeech him to forgive them and all that had a hand in my death; and that the Lord, in his great mercy, will not lay it unto their charge. etc.

The tryal of Sir Henry Vane knt. at the King's bench, Weſtminſter, June 2, and 6, 1662. Together with what he intended to have ſpoken the day of his ſentence, June 11, for arreſt of judgment, had he not been interrupted and over-ruled by the Court, and his bill of exceptions. With other occaſional ſpeeches, etc. Alſo his ſpeech and prayer, etc. on the ſcaffold. Printed in the year 1662, in quarto, p. 90.

Sonnet to Sir Henry Vane.

Vane, young in years, but in ſage councels old,
Than whom a better ſenator ne'er held
The helm of Rome, *when gowns not arms* repell'd
The fierce Epirot, and the African bold,
Whether to ſettle peace, or to unfold
The drift of hollow ſtates, hard to be ſpell'd;
Then to adviſe how war may beſt upheld,
Move by her two main nerves, iron and gold,
In all her equipage: *beſides to know*
Both ſpiritual and civil, what each means,
What ſerves each, thou haſt learn'd; which few have done.
The bounds of either ſword to thee we owe;
Therefore on thy right hand religion leans
In peace, and reckons thee her eldeſt ſon.

John Milton.

The caſes cited by the learned judge [*Hale*] do not in the leaſt ſhake the principle already advanced, that the Throne being full, any perſon out of poſſeſſion but claiming title, be his pretenſions what you pleaſe, is no King within the ſtatute of treaſons.

'have not learnt to make my own peace, by perſecuting and betraying 'my brethren, more innocent and worthy than myſelf. "I muſt live by 'juſt means, and ſerve to juſt ends, or not at all." After ſuch a mani- 'feſtation of the ways by which it is intended the king ſhall govern, I 'ſhould have renounced any place of favour, into which the kindneſs 'and induſtry of my friends might have advanced me, when I found 'thoſe, that were better than I, were only fit to be deſtroyed. I had 'formerly

I am aware of the judgment of the Court of King's bench in the caſe of Sir *Henry Vane*, "That King *Charles* the Second, though kept out of the exerciſe of the Kingly office, yet was ſtill a King both *De facto* and *De Jure*; and that all acts done to the keeping him out were high treaſon."

Sir *Henry Vane*'s, was a very ſingular caſe, and the tranſactions in which he bore a part, happened in a conjuncture of affairs which never did exiſt before, and I hope never will again. An uſurpation founded in the diſſolution of the antient legal government, and the total ſubverſion of the Conſtitution.

I will therefore ſay nothing to the merits of the queſtion more, than that the rule laid down by the Court involved in the guilt of treaſon, every man in the Kingdom who had acted in a public ſtation under a government poſſeſſed IN FACT for twelve years together of ſovereign power; but under various forms at different times, as the enthuſiaſm of the herd, or the ambition of their leaders dictated.

But this reſolution hath not in the leaſt ſhaken the principle I contend for; it doth in reality ſuppoſe the truth of it. For if Charles the Second was King *De facto* from the death of his Father, every thing done from that time in prejudice of his right was undoubtedly high treaſon.

The only difficulty is, what did the Court mean by a King *De facto?* They could not mean, what every ſoul before themſelves underſtood, a King in the actual and full exerciſe of the regal power. They meant, I preſume, as his Lordſhip upon another occaſion is pleaſed to expreſs himſelf, one QUASI *in poſſeſſion of the Crown*; ſince during the uſurpation, no other perſon did claim to act under the regal title.

The diſtinction between *De Jure* and *De Facto* Kings was taken up by the Houſe of *York* to ſerve the purpoſes of ambition and revenge. By the former, they meant thoſe who are preſumed to have ſucceeded to the crown in a regular courſe of deſcent. By the latter, thoſe who have not had that claim to it. The former were in their eſtimation the only rightful Kings. The latter, not excepting ſuch as have claimed under a parliamentary ſettlement, no better than fortunate uſurpers.

This doctrine perfectly ſuited the views of that faction. For the Crown having been entailed by act of Parliament on *Henry* the Fourth and his Iſſue, the Houſe of *York* ſaw itſelf totally excluded, unleſs its pretenſions could be ſupported by a title *Paramount to the power of Parliament.* Proximity in blood was its only refuge, and to that the partizans of that Houſe reſorted. And in ſo doing they brought upon themſelves, in my opinion, the whole guilt of that deluge of blood, which was afterwards ſpilt in the unnatural war between the two Houſes.

It is not to be wondered at, that men whoſe ambition ſuggeſted to them the hope of overturning an eſtabliſhment, to which themſelves, their anceſtors, and the whole Nation had ſubmitted for more than half a century, ſhould endeavour to convince mankind of the rectitude of their intentions, and the juſtice of their claim. Nor is it at all ſurprizing, that their followers, *in the heat of the times*, ſhould ſuffer themſelves to be eaſily convinced. For in the ferment of parties, *Leaders never bluſh, and the Herd of the Party ſeldom think.* But, that perſons who are placed at a happy diſtance from theſe diſaſtrous times, ſhould in cool blood revive and adopt a doctrine, which hath once laid their country waſte, is not ſo eaſily accounted for.

But ſince this hath been done by learned men, among whom Lord Chief Juſtice *Hale*'s name muſt be mentioned with all juſt regard, I will endeavour to point out what I take to have been the *radical* miſtake, which led them into a train of ſpecious but falſe reaſoning upon this ſubject.

'formerly ſome jealouſies; the fraudulent proclamation for indemnity 'increaſed them; the impriſoning of thoſe three men, and turning out 'of all the officers of the army, contrary to promiſe, confirmed me in 'my reſolutions not to return.' To conclude, the tide is not to be 'diverted, nor the oppreſſed delivered; but God, in his time, will have 'mercy on his people. He will ſave and defend them, and avenge the 'blood of thoſe who ſhall now periſh, upon the heaps of thoſe, who, in 'their pride, think nothing is able to oppoſe them. Happy are thoſe, 'whom God ſhall make inſtruments of his juſtice in ſo bleſſed a work! 'If I can live to ſee that day, I ſhall be ripe for the grave, and able to 'ſay with joy, "Lord, now letteſt thou thy ſervant depart in peace." 'Farewel. My thoughts as to king and ſtate depending upon their 'actions, no man ſhall be a more faithful ſervant to him than I, if he 'make the good and proſperity of his people his glory*; none more his 'enemy,

They ſeem not to have ſufficiently attended *to the nature and ends of civil power*, whereof the regal dignity is a principal branch. They ſeem to have conſidered the crown and royal dignity *meerly as a deſcendable property*; as an eſtate or intereſt veſted in the poſſeſſor for the emolument and grandeur of himſelf and heirs, in a regular invariable courſe of deſcent. And therefore in queſtions touching the ſucceſſion, *they conſtantly reſort to the ſame narrow rules and maxims of law and juſtice, by which queſtions of meer property*, the title to a pigſtye or a layſtall, *are governed*. And thence conclude, that the Legiſlature itſelf cannot, without manifeſt injuſtice, interrupt the antient, legal, eſtabliſhed order of ſucceſſion. It cannot, ſay they, without injuſtice, give to one branch of the royal family, what by right of blood belongeth to another.

Thus they argue. And if I could conceive of the Crown as of an inheritance of *meer property*, I ſhould be tempted to argue in the ſame manner. *But had they conſidered the crown and royal dignity, as a deſcendable* OFFICE, *as a* TRVST *for millions, and extending its influence to generations yet unborn; had they conſidered it in that light, they would ſoon have diſcovered the principle upon which the right of the legiſlature to interpoſe in caſes of neceſſity is manifeſtly founded. And that is the* SALVS POPVLI *already mentioned* [p. 382] *upon a like occaſion.* etc. etc. etc. which the ingenuous reader ſhould purſue.

Obſervations on ſome paſſages in the writings of L. C. J. *Hale*; relative to the principles on which the Revolution and preſent HAPPY Eſtabliſhment are founded. By [that faithful judge and friend to liberty] Sir Michael Foſter.

There is an original and good picture of this extraordinary but unfortunate Gentleman, Sir *Henry Vane*, in the *Britiſh Muſaeum*.

[* *If he make the good and proſperity of his people his glory*, etc.]

Of a tall ſtature and of ſable hue
Much like the ſon of Kiſh that lofty Jew;
Twelve years compleat he ſuffer'd in exile,
And kept his father's aſſes all the while.
At length by wonderful impulſe of fate,
The people call him home to mend the ſtate;
And, what is more, they ſend him money too,
And cloath him all, from head to foot, anew.
Nor did he ſuch ſmall favors then diſdain,
Who in his thirtieth year began his reign.
In a ſlaſh'd doublet then he came aſhore,
And dubb'd poor Palmer's wife his royal whore.
Biſhops, and Deans, Peers, Pimps, and Knights he made,
Things highly fitting for a Monarch's trade!
With women, wine, and viands of delight,
His jolly vaſſals feaſt him day and night.
etc. etc. etc.

An hiſtorical poem by A. Marvell.

'enemy, if he doth the contrary. To my particular friends I ſhall 'be

———D'où les Anglois remontant au ſouvenir de la puiſſance de leurs flottes du temps d'*Olivier*; de la gloire qu'elles ont remportées *ſur toutes les mers*; les alliances, *que toute la terre recherchoit avec eux*; de la pompe de la *Republique, vers laquelle il venoit des ambaſſadeurs de tous couſtez*; ils ne peuvent s'empeſcher de faire des comparaiſons *odieuſes*, et de temoigner quelque diſpoſition à des nouveaux deſordres. Ils veulent bien un roi pour la gloire de leur pays. Ils aiment ce titre, et preferent cette ſorte de gouvernement à toutes les autres. Mais ils reconnoiſſent, que leur humeur un peu trop libre et arrogante a beſoin de ce caveçon; ils ne veulent point auſſi le ſouffrir trop rude, et ils pretendent que leur Roi ſe doit appliquer *uniquement* à maintenir la tranquilité publique, à faire vivre heureuſement ſon peuple, et à porter au dehors le plus avant qu'il peut *l'honneur et la reputation de ſa patrie*. Ils deſent que c'eſt pour cela qu'ils l'entretiennent ſplendidement, et leurs *Eſtats*, dans leſquelles proprement reſide la puiſſance Souveraine, ne lui refuſeront jamais rien de ce qu'il leur demandera pour ſatisfaire à ſes intentions. Mais qu'il leur fache de voire commettre une choſe ſi importante au ſoins d'un Miniſtre, qui toujours a des intereſts particuliers, contraires à ceux du public; qu'il eſt ſenſible au peuple de ſe ſaigner inutilement, et de voir employer ſon argent en choſes ſuperfluës, ou meſme *en deſpences des-honnetes*; [rendered in the tranſlation of 1709, "*upon baſe luſts*;"] qu'il n'eſt pas juſte que quelques *ſang-ſuës de cour* en ſoient remplies elles ſeules, et que l'on ne navige ou ne laboure, qu'on ne travaille ſur mer et ſur terre, que pour mettre bien à leur aiſe un petit nombre de perſonnes oiſives, qui abuſeront de la facilité d'un prince. Ces penſées et ces diſcours ſont conformes a l'humeur *arrogante* des *Anglois*, et a la jalouſie avec laquelle ils regardent les proſperitez d'autruy. Mais outre la particuliere inclination que la nature leur donne à former des raiſonnemens *ſi peu reſpectueux*, ils ſe ſont nourris de longue main *dans cette mauvaiſe habitude par la liberté de leurs Parlemens*, d'ont il faut que Je vous raconte l'hiſtoire, telle qu'il m'en ſouvient ou que Je me la ſuis figurée, etc. etc. etc.

"Relation d'un voyage en Angleterre." By Monſ. Sorbiere. Printed at Cologne, 1666, in duod. p. 107.

It was hoped and expected, that this prodigious and univerſal calamity, [the fire of London] for the effects of it covered the whole kingdom, would have made ſome impreſſion and produced ſome *reformation in the licence of the court*. For as the pains the King had taken night and day during the fire, and the dangers he had expoſed himſelf to, even for the ſaving of the citizens goods, had been notorious and in the mouths of all men with many good wiſhes and prayers for him, ſo his majeſty had been heard *during that time* to ſpeak with great piety and devotion of the diſpleaſure that God was provoked to. And no doubt the deep ſenſe of it did raiſe many good thoughts aud purpoſes in his royal breaſt. But he was narrowly watched and looked to, that ſuch melancholick thoughts might not long poſſeſs him, the conſequence and effect whereof was like to be more grievous than that of the fire itſelf; of which, *that looſe company that was too much cheriſhed*, even before it was extinguiſhed, diſcourſed as of an argument for mirth and wit to deſcribe the wildneſs of the confuſion all people were in; in which the ſcripture itſelf was uſed with equal liberty, when they could apply it to their *profane* purpoſes. And Mr. *May* preſumed to aſſure the King, "that this was the greateſt bleſſing, that God had ever conferred upon him, his Reſtoration only excepted: for the walls and gates being now burned and thrown down of that rebellious city, which was always an enemy to the Crown, his Majeſty would never ſuffer them to repair and build them up again, to be *a bit in his mouth and a bridle upon his neck*; but would keep all open, that his troops might enter upon them whenever he thought neceſſary for his ſervice, *there being no other way to govern that rude multitude but by force.*"

The continuation of the life of Edward Earl of Clarendon, vol. 3. p. 674.

———See other paſſages of a like kind in that work. [*Midhurſt. Baptiſt May* Eſq. privy purſe, L 1000 a year allowance. Got beſides in boons for *ſecret* ſervice L 40000. This is he that ſayd, "*Five hundred pounds a year was enough for a Country Gentleman to drink ale, eat beef, and ſtink with.*" etc. A ſeaſonable argument, etc.]

Such unanimity appeared in the proceedings of the new Parliament, or Convention as it came afterwards to be called becauſe it was not ſummoned by the King's writ, that

'' be conſtant in all occaſions, and to you a moſt affectionate ſervant.'

After

there was not the leaſt diſpute among them but upon one ſingle point; *yet that was a very important one. Hale*, afterwards the famous Chief Juſtice, moved, "*That a Committee might be appointed to look into the propoſitions that had been made, and the conceſſions that had been offered by the late King during the war, particularly at the treaty of Newport, that from thence they might digeſt ſuch propoſitions as they ſhould think fit to be ſent over to the King.*" This was ſeconded, but I do not remember [pity it is that he did not!] by whom. It was foreſeen that ſuch a motion might be ſet on foot, ſo *Monk* was inſtructed how to anſwer it, whenſoever it ſhould be propoſed. He told the Houſe, that there was yet, beyond all mens hope, an univerſal quiet all over the nation; but there were many incendiaries ſtill on the watch, trying where they could firſt raiſe the flame. He ſaid, he had ſuch copious informations ſent him of theſe things, that it was not fit they ſhould be generally known: He could not anſwer for the peace either of the Nation or of the Army, if any delay was put to the ſending for the King: What need was there of ſending propoſitions to him? Might they not as well prepare them and offer them to him when he ſhould come over? He was to bring neither army nor treaſure with him either to fright them or corrupt them. So he moved, that they would immediately ſend commiſſioners to bring over the King: And ſaid, that he muſt lay the blame of all the blood or miſchief that might follow on the heads of thoſe, who ſhould ſtill inſiſt on any motion that might delay the preſent ſettlement of the Nation. This was echo'd with ſuch a ſhout over the Houſe, that the motion was no more inſiſted on.

This was indeed the great ſervice that Monk did. It was chiefly owing to the poſt he was in and to the credit he had gained; for as to the Reſtoration itſelf, the tide run ſo ſtrong, that he only went into it dexterouſly enough, to get much fame and great rewards, for that which will have ſtill a great appearance in hiſtory. *If he had died ſoon after, he might have been more juſtly admired, becauſe leſs known and ſeen only in one advantageous light:* But he lived long enough to make it known, how falſe a judgment men are apt to make upon outward appearance. *To the King's coming in without conditions may be well imputed all the errours of his reign.* And when the Earl of *Southampton* came to ſee *what he was likely to prove*, he ſaid once *in great wrath* to Chancellor *Hide*, "It was to him they owed all they either felt or feared; for if he had not poſſeſſed them in all his letters with ſuch an opinion of the King, they would have taken care to have put it out of his power either to do himſelf or them any miſchief, which was like to be the effect of their truſting him ſo entirely." *Hide* anſwered, "That he thought the King had ſo true a judgment and ſo much good nature, that when the age of pleaſure ſhould be over, and the idleneſs of his exile which made him ſeek new diverſions for want of other employment was turned to an obligation to mind affairs, then he would have ſhaken off thoſe entanglements."

Burnet's hiſt. of his own times, vol. I. p. 89.

A colony of French poſſeſs the Court;
Pimps, prieſts, buffoons, in privy chamber ſport.
Such ſlimy monſters ne'er approached a throne
Since Pharaoh's days, nor ſo defil'd a crown.
In ſacred ear *tyrannic arts they croak*,
Pervert his mind, and good intentions choak;
Tell him of golden Indies, fairy lands,
Leviathan, and abſolute commands.

Britannia and Raleigh, a poem by A. Marvell.

The ſecret of the *King* and *Duke*'s being ſo eager and hearty in their reſolutions to break with *France* at this juncture, [July 1678] was as follows.

France, in order to break the force of the Confederacy, and elude all juſt conditions of a general peace, reſolved by any means to enter into ſeparate meaſures with *Holland*; to which end it was abſolutely neceſſary to engage the good offices of the King of *England*, who was looked upon to be maſter of the peace whenever he pleaſed. The bargain was ſtruck for three or four hundred thouſand pounds. But when all was agreed, Monſieur *Barillon*, the French ambaſſador, told the King, "that he had orders from his maſter,

After he had continued ſome time in Italy, he thought proper to draw nearer

before payment, to add a private article, by which his Majeſty ſhould be engaged, never to keep above eight thouſand men of ſtanding troops in his three kingdoms." This unexpected propoſal put the King in a rage, and made him ſay, "—*d's fiſh! Does my brother of France think to ſerve me thus? Are all his promiſes to make me abſolute maſter of my* ——— *come to this? Or does he think that a thing to be done with eight thouſand men?*

Temple's works, vol. 11. p. 464. in a note, edit. 1720.

——By this means came in *Charles* the ſecond, a luxurious effeminate prince, a deep diſſembler, and if not a papiſt himſelf, yet a great favourer of them: but the People had ſuffered ſo much *from the army*, that he was received with the utmoſt joy and tranſport. The Parliament, *in the Honey-moon*, paſſed what laws he pleaſed, gave a vaſt revenue for life, being three times as much as any of his predeceſſors enjoyed, and ſeveral millions beſides to be ſpent in his pleaſures. *This made him conceive vaſter hopes of an arbitrary power than any that went before him, and in order to it he debauched and enervated the whole kingdom.* His Court was a ſcene of adulteries, drunkenneſs and irreligion, appearing more like ſtews or the feaſts of *Bacchus*, than the family of a chief magiſtrate. And in a little time the contagion ſpread through the whole Nation, *that it was out of the faſhion not to be lewd, and ſcandalous not to be a public enemy.*" etc. etc. etc.

" A ſhort hiſtory of ſtanding armies in *England*." [by John Trenchard.] London, 1698. in quarto.

———*Ruſſel* the painter related to or connected with the *Olivers*, told *Vertue* a remarkable ſtory. The greater part of the collection of King *Charles* being diſperſed in the troubles, among which were ſeveral pictures of the *Olivers*, *Charles* II. who remembered and was deſirous of recovering them, made many inquires about them after the reſtoration. At laſt he was told by one *Rogers* of *Iſleworth*, probably *Progers* well known for being employed in the King's *private* pleaſures, that both father and ſon were dead, but that the ſon's widow was living at *Iſleworth* and had many of their works. The King went privately and unknown with *Rogers* to ſee them. The widow ſhowed ſeveral finiſhed and unfiniſhed, with many of which the King being pleaſed, aſked if ſhe would ſell them; ſhe replied, ſhe had a mind the King ſhould ſee them firſt, and if he did not purchaſe them, ſhe ſhould think of diſpoſing of them. The King diſcovred himſelf; on which ſhe produced ſome more pictures which ſhe ſeldom ſhowed. The King deſired her to ſet a price; ſhe ſaid ſhe did not care to make a price with his Majeſty, ſhe would leave it to him: but promiſed to look over her huſband's books and let his Majeſty know what prices his father the late King had paid. The King took away what he liked, and ſent *Rogers* to Mrs. *Oliver* with the option of a thouſand pounds, or an annuity of three hundred pounds for her life. She choſe the latter. Some years afterwards, it happened, that the King's *miſtreſſes* having begged all or moſt of theſe pictures, Mrs. *Oliver*, who probably was a prude and apt to expreſs herſelf like a prude, ſaid, on hearing it, " *that if ſhe had thought the King would have given them to ſuch whores and ſtrumpets and baſtards*, he never ſhould have had them." This reached the *Court*; the poor woman's annuity was ſtopped and ſhe never received it afterwards.

Anecdotes of painting in England, with ſome account of the principal artiſts; etc. collected by the late Mr. George Vertue, and now digeſted and publiſhed by Mr. Horace Walpole. Strawberry hill, printed 1762, [FROM HIS OWN PRESS, mark that ye Nobles, Gentry,] in two vol. quarto, vol. 2. p. 14.

One other extract from this author, to whom the *public* are variouſly obliged, cannot be improper in the *Memoirs of A. Sidney*. It is taken from the ſecond volume of the above work, p. 147.

" The whole fabric [the intended palace of Whitehall by Inigo Jones] was ſo glorious an idea, *that one forgets for a moment, in the regret for its not being executed, the confirmation of our liberties obtained by a melancholy ſcene that paſſed before the windows of that very banquetting-houſe.*"

Alfred was of perſon comlier then all his brethren, of pleaſing tongue and graceful behaviour, ready wit and memory; yet through the fondneſs of his parents towards him, had not been taught to read till the twelfth year of his age; *but the great deſire of learning which was in him*, ſoon appeared, by his conning of *Saxon* poems day and night, which with great attention

nearer home, that if an opportunity ſhould offer, " he might not," as

attention he heard by others repeated. He was beſides, excellent at hunting and the new art then of hawking, *but more exemplary in devotion*, having collected into a book certain prayers and pſalms which he carried ever with him in his boſome to uſe on all occaſions. *He thirſted after all liberal knowledge*, and oft complained, that in his youth he had no teachers, in his middle age ſo little vacancy from wars and the cares of his kingdome; *yet leaſure he found ſometimes, not only to learn much himſelf, but to communicat therof what he could to his people*, by tranſlating books out of Latin into Engliſh, *Oroſius, Boethius, Beda's* hiſtory and others; *permitted none unlern'd to bear office, either in Court or Commonwealth.* At twenty years of age, not yet reigning, he took to wife *Egelſwitha* the daughter of *Ethelred* a *Mercian* Earl. The extremities which befell him in the ſixt of his reign, *Neothan* Abbot told him, were juſtly come upon him for neglecting in his younger days the complaints of ſuch as injured and oppreſſed repaired to him, as then ſecond perſon in the kingdom for redreſs; *which neglect were it ſuch indeed, were yet excuſable in a youth*, through jollity of mind unwilling perhaps to be detained long with ſad and ſorrowful narrations; *but from the time of his undertaking regal charge, no man more patient in hearing cauſes, more inquiſitive in examining, more exact in doing juſtice, and providing good laws which are yet extant; more ſevere in puniſhing unjuſt judges or obſtinate offenders. Theeves eſpecially and robbers, to the terror of whom in croſs waies were hung upon a high poſt certain chains of gold, as it were dareing any one to take them thence; ſo that juſtice ſeemed in his daies not to flouriſh only but to triumph. No man then hee more frugal of two pretious things in man's life, his time and his revenue; no man wiſer in the diſpoſal of both.* His time, the day and night he diſtributed by the burning of certain tapours into three equal portions; the one was for devotion, the other for public or private affairs, the third for bodily refreſhment: how each hour paſt, he was put in minde by one who had that office. His whole annual revenue, which his firſt care was ſhould be juſtly his own, he divided into two equall parts. The firſt he imploi'd to ſecular uſes, and ſubdivided thoſe into three; the firſt to pay his ſouldiers, houſehold-ſervants and guard, of which divided into three bands one attended monthly by turn; the ſecond was to pay his architects and workmen, *whom he had got together of ſeveral nations*, for he was alſo an elegant builder, *above the cuſtome and conceit of Engliſhmen in thoſe days:* the third he had in readineſs *to relieve or honor ſtrangers according to their worth*, who came from all parts to ſee him, *and live under him.* The other equal part of his yearly wealth he dedicated to religious uſes, thoſe of fowr ſorts. The firſt *to relieve the poor*; the ſecond to the building and maintenance of two monaſteries; the third *of a ſchool, where he had perſuaded the ſons of many noblemen to ſtudy ſacred knowledge and liberal arts*, ſome ſay at *Oxford*; the fourth was for the relief of *foreign* churches as far as *India* to the ſhrine of St. *Thomas*, ſending thether *Sigelm* biſhop of *Sherburn*, who both returned ſafe and brought with him many rich gems and ſpices: guifts alſo and a letter he receaved from the Patriarch of *Jeruſalem*, ſent many to *Rome*, and for them receaved reliques. Thus far, and much more might be ſaid of his NOBLE minde, which rendered him the miror of Princes. His body was diſeaſed in his youth with a great ſoreneſs in the ſeige, and that ceaſing of itſelf, with another inward pain of unknown cauſe, which held him by frequent fits to his dying day; *yet not diſinabled to ſuſtain thoſe many glorious labors of his life both in peace and war.*

The hiſtory of Britain, that part eſpecially now called England, from the firſt traditional beginning to the Norman conqueſt. By John Milton. London printed 1671, in quarto.

The *Reader* will forgive the following digreſſion, if it be a digreſſion, reſpecting good and bad *miniſters*, which makes part of *Milton's inimitable prayer*, in his *firſt* proſe tract, intitled " Of Reformation" etc. printed London 1641, in quarto.

" Then amidſt the hymns and halleluiahs of Saints, ſome one may perhaps bee heard offering *at high ſtrains in new and lofty meaſures*, to ſing and celebrate thy divine mercies and marvellous judgments in this land throughout all ages; whereby this great and warlike nation inſtructed and inured to the fervent and continuall practice of truth and righteouſneſſe, *and caſting farre from her the rags of her old vices*, may preſſe on *hard* to that high and happy emulation to be found the ſobereſt, wiſeſt, and moſt chriſtian people, at that day when thou the

as general Ludlow obſerves *, be wanting to his duty and the public ſervice." In his way he viſited that general and his friends, in their retirement in Switzerland; aſſuring them of his affection and friendſhip, and no way declining to own them and the cauſe for which they ſuffered. He ſtaid with them about three weeks; and deſigning to go for Flanders, where he reſolved to paſs the enſuing winter, he took his journey by the way of Berne, doing all the good offices he could for general Ludlow † and his friends, with the advoyer and other principal magiſtrates of that city. He was at Bruſſels in the end of the year 1663, whence he wrote to his father, with relation to tranſporting a body of the beſt officers and ſoldiers of the old army into the ſervice of the emperor.

In 1665, upon the breaking out of the war between England and the United Provinces, ten perſons were ſent by king Charles II. to Augſburg in Germany to *aſſaſſinate* colonel Sydney ‡; and probably might have effected their deſign, if he, having undertaken a journey to Holland, upon

the eternall and ſhortly-expected King ſhalt open the clouds to judge the ſeverall kingdomes of the world, and diſtributing *national honors and rewards* to religious and juſt *Commonwealths*, ſhalt put an end to all earthly *Tyrannies*, proclaiming thy univerſal and milde *Monarchy* through heaven and earth. Where they undoubtedly, *that by their labors, counſels and prayers, have been earneſt for the common good of religion and their Countrey*, ſhall receive *above* the inferior orders of the bleſſed, the regall addition of principalities, legions and thrones into their glorious titles, and in ſupereminence of beatific viſion progreſſing the dateleſſe and irrevoluble circle of *Eternity*, ſhall claſp *inſeparable* hands with joy and bliſſe, *in over-meaſure* for ever. But they contrary, *that by the impairing and diminution of the true faith, the diſtreſſes and ſervitude of their Country*, aſpire to high dignity, rule and promotion here, after a ſhameful end in this life, WHICH GOD GRANT THEM, ſhall be throwne downe eternally into the darkeſt and deepeſt gulfe of hell, where under the deſpightfull controule, the trample and ſpurne of all the other damned, that in the anguiſh of their torture ſhall have no other eaſe then to exerciſe a raving and beſtiall tyrranny over them as their ſlaves and negro's, they ſhall remaine in that plight for ever, *the baſeſt, the lowermoſt, the moſt dejected, moſt underfoot and downe-trodden vaſſals of perdition.*"

* Memoirs, p. 384, folio edit.

† *Edmund Ludlow*, Knight of the ſhire for the County of *Wilts*, in the Parliament which began Nov. 3, 1640; one of the Council of State, Lieutenant-General of Horſe and Commander in chief of the Forces in *Ireland*. An honeſt man by the confeſſion of his enemies. His ſeat was *Maiden Bradley*, with a paternal eſtate, it is ſaid of upwards of 3000 *l.* a year belonging to it. During his retirement in *Switzerland*, he wrote his "*Memoirs*," and ſeveral curious valuable tracts.

It may not be improper here, to give an extract of a letter from *Philip*, Lord Viſcount *Liſle*, to his father *Robert*, earl of *Leiceſter*, dated Nov. 6, 1649, taken from the *Sidney* State papers; as it accounts, in part, for the kindneſs and attention ſhewn afterwards in *Switzerland* to the *Commonwealth party* which ſheltered themſelves there. "The Parliament's declaration made ſince the change of the government, hath been, as the Council is informed, much approved of, in many parts of the *Swiſſes* Countrey; and the Miniſters there, do publickly give God thanks for the eſtabliſhment of the *Republic* and pray for it: upon which I believe an Agent will ſhortly be ſent thither."

The Latin edition of the Declaration was printed Mar. 22, 1648, in quarto, under this title, "Parliamenti Angliae declaratio. In quâ Res nuperum geſtae, et Decretum de Statu Angliae Regio in liberam Rempublicam vertendo, aſſeruntur." And the following order was placed before the title, "Die Sabbathi 17 Martii, 1648. Comitiis Populi Parliamentariis decernitur, hanc Declarationem typis eſſe illicò mandandam. Hen. Scobell Cleric. Parliamenti."

‡ Memoirs of Edmund Ludlow, p. 404.

upon buſineſs relating to the public, had not removed from that city before their arrival.

He continued abroad till the year 1677, when he procured leave to return to England; and obtained a particular pardon, according to biſhop Sprat, "upon repeated promiſes of conſtant quiet and obedience for the "future ‖." Biſhop Burnet affirms, that 'he came back when the par-'liament was preſſing the king into a war. The court of France obtained 'leave for him to return. He did all he could to divert the people from 'the war; ſo that ſome took him for a penſioner of France §. But he 'ſaid, our court was in an entire confidence in France, and had no other 'deſign in this ſhew of a war, but to raiſe an army and keep it beyond-'ſea till it was trained and modelled.' But it is evident from a letter of his to Henry Savile, the Engliſh ambaſſador in France *, that it was that gentleman

‖ Hiſt. of the Rye-houſe plot.

[§ *Some took him for a Penſioner of France.*]

The following anecdote having been communicated to Dr. Hutcheſon of Glaſgow, was frequently related by him to his friends: "Mr. Sidney, during his ſtay in France, being one day hunting with the French King, and mounted on a fine Engliſh horſe, the form and ſpirit of which caught the King's eye, received a meſſage, that he would be pleaſed to oblige the King with his horſe at his own price. He anſwered, that he did not chooſe to part with him. The King determined to have no denial, and gave orders to tender him money or to ſeize the horſe; which being made known to Mr. Sidney, he inſtantly took a piſtol and ſhot him, ſaying, That his horſe was born a free creature, had ſerved a free man, and ſhould not be maſtered by a King of ſlaves."

[* *To Henry Savile, the Engliſh ambaſſador in France*, etc.]

Mr. *Savile* is ſaid to have replied to a *Frenchman*, who exulted upon the fine writings of his countrymen, *That there were but two ſubjects in nature worth a wiſe man's thoughts, namely religion and government, and they durſt ſpeak of neither.*

The Independent Whig, numb. I.

The celebrated Monſ. Voltaire, in his "Ode ſur la mort de Madame de Bareith, avec une lettre, etc." ſeems to have entertained, nearly, the ſame idea as Mr. Savile; and fixes the ſuperiority of the Engliſh Nation, where *alone* it centers, UPON ITS LIBERTY.

"Les Italiens, ces peuples ingénieux, ont craint de penſer; les Français n'ont oſé penſer qu'à demi, et les Anglais qui ont volé juſqu'au ciel, PARCE QV'ON NE LEVR A POINT COVPÉ LES AILES, ſont devenus les précepteurs des nations. Nous leur devons tout, depuis les loix primitives de la gravitation, depuis le calcul de l'infini et la connaiſſance préciſe de la lumiére ſi vainement combattues, juſqu'a la nouvelle charue, et à l'inſertion de la petite vérole, combattues encore."

Signor Martinelli has a note alſo to the ſame effect in his elegant edition of the "Decamerone di Giouanne Boccacio."

"La lingua Toſcana, può dirſi il miracolo delle lingue sì morte come viventi. Ella nacque, ſi può dir, come roſa infra le ſpine della perſecuzione; perche Dante e il Petrarca le loro belle opere in eſilio compoſero, e il Boccaccio il ſuo Decamerone terminò, ſiccome nel proemio alla quarta giornata dichiara, ſaettato dall'invidia e dalla calunnia. Il Machiavelli fù martoriato dalla fazione dei Medici, per eſſerſi ingegnato d'impedir loro d'occupare la tirannide della ſua patria. Il Guicciardini ſi preſe un volontario eſilio in una ſua villa, per non vedere ſpirare la libertà della Republica Fiorentina nelle mani di Coſimo primo, e quivi terminò di ſcrivere la ſua Iſtoria d'Italia. Al Segni e al Varchi, proibirono i Granduchi di publicare le loro Iſtorie di Firenze. Il Galileo, tra le perſecuzioni con le quali convenne combattere, ebbe quella d'Impoſtore che ſi arrogarono le ſue mirabili invenzioni, con le quali ha aperto ai mortali la via d'indagare l'indole e movimenti de' corpi celeſti; e finalmente l'Arioſto viſſe povero e Torquato Taſſo morì poveriſſimo.

Parlando

gentleman who obtained leave for him to return. The letter is dated from Nerac, December 28, 1682, but the year erroneouſly printed.

He was at Penſhurſt * on the 13th of November, 1677, and then gave a diſcharge to the executors of his father's will, Robert earl of Sunderland, Henry Sydney his brother, and Sir John Pelham, bart. for the legacy left him therein of 5000 and 100l.

The year following, he ſtood candidate for the town of Guildford in Surrey; but the court oppoſing his election he loſt it: and though he drew up an account of the irregular proceedings in it, yet he did not think proper to purſue his claim. In 1679, he ſtood likewiſe candidate for the borough of Bramber, in Suſſex; but was not choſen, the intereſt being before made by Sir John Pelham and the Sydney family, fearing the ardour and intrepidity of his temper in ſuch times, for his brother Henry Sydney, afterwards earl of Romney.

In 1683, he was accuſed of being concerned in the Rye-houſe plot; and after the lord Ruſſel had been examined, he was brought before the king and council. He told them, that he would make the beſt defence he could, *if they had any proof againſt him*, but he would not fortify their evidence by any thing he ſhould ſay; ſo that his examination was very ſhort.† He lay ſome time in the Tower, and was brought thence by Habeas Corpus, on the 7th of November, 1683, to the king's-bench bar, where he was arraigned on an indictment of high treaſon. On the 21ſt of November he was tried. For particulars, the reader will be pleaſed to conſult his tryal.

The colonel being found guilty, when he was brought into court to receive ſentence, he repeated his objections to the evidence againſt him; in which judge Withins interrupted him, and by a ſtrange indecency *gave him the lye in open court, which he bore patiently* ‡.

His execution was reſpited for three weeks; the tryal being univerſally exclaimed againſt, as a piece of moſt enormous injuſtice. After conviction he ſent to the lord Halifax, who was his nephew by marriage, a paper to be laid before the king, containing the main points of his defence, upon which he appealed to his majeſty, and deſired he would review the whole

Parlando dei Latini, Ennio fù produzione del favore di Caton maggiore, Terenzio di quello di Scipione, Lucrezio fù l'ammirazione e la delizia dei Grandi, e Cavalier riguardevole egli ſteſſo, e Cicerone fù l'Arbitro un tempo della Republica; Virgilio e Orazio ebbero uno Auguſto che gli colmò di benefizj, e Cornelio Tacito ebbe l'Imperator Traiano per protettore e per amico.

E venendo alle lingue viventi, la lingua Franceſe ebbe varj governi, che premiarono grandemente quelli ſcrittori che in eſſa in qualche maniera ſi diſtinſero; nondimeno non oltrepaſsò, il figurar nel Teatro, e divenire la lingua franca di alcune Nazioni d'Europa per il militare e la mercatura: e ſe la lingua Ingleſe e divenuta la lingua della filoſofia e di ogni altra ſcienza lo deve AL GENIO LIBERO e inquiſitivo della Nazione, ſecondato dalle vaſtiſſime ricchezze che le ha ſomminiſtrate il commercio, mezzo efficaciſſimo a condur gl'ingegni a gran coſe *non meno che alla corruzione*."

* Collins's Memoirs.

† Burnet, vol. i. p. 548.

‡ See the note in the Tryal; p. 118.

whole matter. Whereupon the lord chief juſtice Jefferies, who had tryed him, ſaid, '*That either Sydney muſt dye or he muſt dye* §.' During his impriſonment, he ſent for ſome independent preachers, and expreſſed to them a deep remorſe for his paſt ſins and a great confidence in the mercies of God. When he ſaw the warrant for execution he expreſſed no concern at it, and the change that was in his temper amazed all who went to him. He told the ſheriffs who brought the warrant †, that he would not expoſtulate upon any thing on his account, for the world was now nothing to him, but he deſired they would conſider, how guilty they were of his blood, who had not returned a fair jury but one packed, and as they were directed by the king's ſolicitor; he ſpoke this to them, not for his own ſake but for their ſake. One of the ſheriffs was ſtruck with this and wept. He wrote a long vindication of himſelf, which biſhop Burnet ſays he had read; and that he ſummed up the ſubſtance of it in the paper which he gave to the ſheriffs: and ſuſpecting they might ſuppreſs it, he gave a copy of it to a friend. It was a fortnight before it was printed; though the ſpeeches of

§ Burnet, vol. i. p. 572.

† "This indenture made the ſeventh day of December, in the five and thirtieth year of the reigne of our ſovereign Lord Charles the Second, by the grace of God king of England, Scotland, France and Ireland, Defender of the Faith, etc. and in the year of our Lord 1683, between the honourable Thomas Cheeke Eſq. Lieutenant of his Majeſty's Tower of London of the one part, and Peter Daniel Eſq. and Samuel Daſhwood Eſq. Sheriffs of the county of Middleſex of the other part: Whereas Algernoon Sydney, Eſq. by warrant of the Right Honourable Sir Leolin Jenkins, Knight, his Majeſty's principal Secretary of State, bearing date at Whitehall the five and twentieth day of June, in the five and thirtieth year of the reigne of King Charles the Second aforeſaid, was committed to the cuſtody of the ſaid Lieutenant of the Tower for High Treaſon in compaſſing the death of the King, and conſpiring to levy war againſt him, by him the ſaid Lieutenant to be ſafely kept up until he ſhould be delivered by due courſe of law; and whereas, by writ iſſuing out of his Majeſty's Court of King's Bench, under the ſeal of the ſaid Court, bearing date the eight and twentieth day of November laſt paſt, reciting the judgment of the ſaid Court againſt the ſaid Algernoon Sydney for divers high treaſons touching his Majeſty's perſon, whereof he then ſtood convicted and attainted, the ſaid Lieutenant of the Tower was commanded, that upon Friday the ſeventh day of December then next coming, he the ſaid Lieutenant ſhould meet the Sheriffs of Middleſex at Tower-Hill, and there cauſe the ſaid Algernoon Sydney to be delivered to the ſaid Sheriffs, to the intent that the ſaid Sheriffs might cauſe execution to be made of him the ſaid Algernoon Sydney, in ſuch manner as in the ſaid writt, is recited. Now this indenture witneſſeth, that the ſaid Thomas Cheeke, in obedience to the ſaid writt, and in performance of his Majeſty's command therein ſpecified, doth, the day of the date of theſe preſent indentures, deliver unto the ſaid Peter Daniel and Samuel Daſhwood, the body of the ſaid Algernoon Sydney, in the ſaid writt mentioned, according to the form and effect of the ſaid writt; and the ſaid Peter Daniel and Samuel Daſhwood do hereby acknowledge to have received, on the day of the date of this preſent indenture, of and from the ſaid Thomas Cheeke, the body of the ſaid Algernoon Sydney, and of him do acquit and diſcharge the ſaid Thomas Cheeke by theſe preſents; in witneſs wherof the parties to theſe preſents have hereunto interchangeably ſet their hands and ſeals, the day and year firſt above written.

Peter Daniel.
Samuel Daſhwood.

Sealed and delivered
in the preſence of
Rich. Bradborne.
Ob. Reynolds.

of thoſe who had died for the popiſh plot, were publiſhed the very next day: and it would not have been ſuffered to have been printed, but that written copies were daily diſperſed. He met death with an unconcernedneſs which became one, who had ſet up Marcus Brutus for his pattern. He was but a few minutes on the ſcaffold on Tower-hill; he ſpake little and his prayer was very ſhort; and his head was cut off at one blow, on the 7th of December, 1683, aged about ſixty one years. The next day his body was interred with his anceſtors at Penſhurſt. The paper which he delivered to the Sheriffs, ſets forth his innocence and the violent treatment which he had undergone with ſuch force, that it deſerves to be inſerted here at full length.

Men, Brethren, and Fathers; Friends, Countrymen, and Strangers!

It may be expected, that I ſhould now ſay ſome great matters unto you; but the rigour of the ſeaſon, and the infirmities of my age, increaſed by a cloſe impriſonment of above five months, do not permit me.

Moreover, we live in an age that makes truth paſs for treaſon: I dare not ſay any thing contrary unto it, and the ears of thoſe that are about me will probably be found too tender to hear it. My tryal and condemnation doth ſufficiently evidence this.

Weſt, Rumſey, and Keyling, who were brought to prove the plot, ſaid no more of me, than that they knew me not; and ſome others, equally unknown to me, had uſed my name and that of ſome others, to give a little reputation to their deſigns. The lord Howard is too infamous by his life, and the many perjuries not to be denied or rather ſworn by himſelf, to deſerve mention; and being a ſingle witneſs, would be of no value, though he had been of unblemiſhed credit, or had not ſeen and confeſſed, that the crimes committed by him would be pardoned only for committing more; and even the pardon promiſed could not be obtained till the drudgery of ſwearing was over.

This being laid aſide, the whole matter is reduced to the papers ſaid to be found in my cloſet by the king's officers, without any other proof of their being written by me, than what is taken from ſuppoſitions upon the ſimilitude of an hand that is eaſily counterfeited, and which hath been lately declared in the lady Car's caſe, to be no lawful evidence in criminal cauſes.

But, if I had been ſeen to write them, the matter would not be much altered. They plainly appear to relate to a large treatiſe written long ſince in anſwer to Filmer's book, which by all intelligent men is thought to be grounded upon wicked principles, equally pernicious to magiſtrates and people.

If he might publiſh to the world his opinion, That all men are born under a neceſſity derived from the laws of God and nature, to ſubmit to an abſolute kingly government, which could be reſtrained by no law, or oath; and that he that has the power, whether he came to it by creation, election, inheritance, uſurpation, or any other way, had the right; and

none

none muſt oppoſe his will, but the perſons and eſtates of his ſubjects muſt be indiſpenſably ſubject unto it; I know not why I might not have publiſhed my opinion to the contrary, without the breach of any law I have yet known.

I might, as freely as he, publicly have declared my thoughts, and the reaſons upon which they were grounded; and I am perſuaded to believe, that God had left nations to the liberty of ſetting up ſuch governments as beſt pleaſed themſelves.

That magiſtrates were ſet up for the good of nations, not nations for the honour or glory of magiſtrates.

That the right and power of magiſtrates in every country was that which the laws of that country made it to be.

That thoſe laws were to be obſerved, and the oaths taken by them, having the force of a contract between magiſtrate and people, could not be violated without danger of diſſolving the whole fabric.

That uſurpation could give no right; and the moſt dangerous of all enemies to kings were they, who raiſing their power to an exorbitant height allowed to uſurpers all the rights belonging unto it.

That ſuch uſurpations being ſeldom compaſſed without the ſlaughter of the reigning perſon or family, the worſt of all villanies was thereby rewarded with the moſt glorious privileges.

That if ſuch doctrines were received, they would ſtir up men to the deſtruction of princes with more violence than all the paſſions that have hitherto raged in the hearts of the moſt unruly.

That none could be ſafe, if ſuch a reward were propoſed to any that could deſtroy them.

That few would be ſo gentle as to ſpare even the beſt, if, by their deſtruction, a wild uſurper could become God's anointed, and by the moſt execrable wickedneſs inveſt himſelf with that divine character.

This is the ſcope of the whole treatiſe; the writer gives ſuch reaſons, as at that time did occur to him, to prove it. This ſeems to agree with the doctrines of the moſt reverenced authors of all times, nations and religions. The beſt and wiſeſt of kings have ever acknowledged it. The preſent king of France has declared, that kings have that happy want of power, that they can do nothing contrary to the laws of their country; and grounds his quarrel with the king of Spain, anno 1667, upon that principle. King James, in his Speech to the Parliament, anno 1603, doth in the higheſt degree aſſert it: the ſcripture ſeems to declare it. If nevertheleſs the writer was miſtaken, he might have been refuted by law, reaſon, and ſcripture; and no man for ſuch matters was ever otherwiſe puniſhed, than by being made to ſee his error; and it has not, as I think, been ever known that they had been referred to the judgment of a jury, compoſed of men utterly unable to comprehend them.

But there was little of this in my caſe: the extravagance of my proſecutors goes higher: the above-mentioned treatiſe was never finiſhed, nor could be in many years, and moſt probably would never have been. So much

much as is of it was written long ſince, never reviewed, nor ſhewn to any man; and the fiftieth part of it was not produced, and not the tenth of that offered to be read. That which was never known to thoſe who are ſaid to have conſpired with me, was ſaid to be intended to ſtir up the people in proſecution of the deſigns of thoſe conſpirators.

When nothing of particular application to time, place, or perſon, could be found in it, as has ever been done by thoſe who endeavoured to raiſe inſurrections, all was ſupplied by innuendo's.

Whatſoever is ſaid of the expulſion of Tarquin; the inſurrection againſt Nero; the ſlaughter of Caligula or Domitian; the tranſlation of the crown of France from Meroveus's race to Pepin, and from his deſcendants to Hugh Capet and the like, was applied by innuendo to the king.

They have not conſidered, that if ſuch acts of ſtate be not good, there is not a king in the world that has any title to the crown he wears; nor can have any unleſs he could deduce his pedigree from the eldeſt ſon of *Noah*, and ſhew that the ſucceſſion had ſtill continued in the eldeſt of the eldeſt line, and been ſo deduced to him.

Every one may ſee what advantage this would be to all the kings of the world; and whether, that failing, it were not better for them to acknowledge they had received their crowns by the conſent of willing nations, or to have no better title to them than uſurpation and violence; which, by the ſame ways, may be taken from them.

But I was long ſince told, that I muſt die or the plot muſt die.

Leſt the means of deſtroying the beſt proteſtants in England ſhould fail, the bench muſt be filled with ſuch as had been blemiſhes to the bar.

None but ſuch as theſe would have adviſed with the king's council of the means of bringing a man to death; ſuffered a jury to be packed by the king's ſolicitors and the under-ſheriff; admit of jurymen who are not freeholders; receive ſuch evidence as is above-mentioned; refuſe a copy of an indictment, or ſuffer the ſtatute of 46 Edw. III. to be read, that doth expreſly enact, It ſhould in no caſe be denied to any man, upon any occaſion whatſoever; over-rule the moſt important points of law without hearing. And whereas the ſtatute, 25 Edw. III. upon which they ſaid I ſhould be tried, doth reſerve to the parliament all conſtructions to be made in points of treaſon, they could aſſume to themſelves not only a power to make conſtructions, but ſuch conſtructions as neither agree with law, reaſon or common ſenſe.

By theſe means I am brought to this place. The Lord forgive theſe practices, and avert the evils that threaten the nation from them! The Lord ſanctify theſe my ſufferings unto me! and though I fall as a ſacrifice to idols, ſuffer not idolatry to be eſtabliſhed in this land! Bleſs thy people, and ſave them. Defend thy own cauſe, and defend thoſe that defend it. Stir up ſuch as are faint; direct thoſe that are willing; confirm thoſe that waver; give wiſdom and integrity unto all. Order all things ſo, as may moſt redound to thine own glory. Grant that I may die glorifying thee for all thy mercies; and that at the laſt thou haſt permitted

me

me to be ſingled out as a witneſs of thy truth, and even by the confeſſion of my oppoſers, for that OLD CAUSE* in which I was from my youth engaged, and for which thou haſt often and wonderfully declared thyſelf.

Upon the revolution †, ſuch regard was had to his innocence and the juſtice due to his memory, that the parliament made it one of their firſt acts to repeal his attainder, on the 13th of February, 1688-9, the preamble to the act being in the following words,

'Whereas Algernon Sydney, Eſq. in the term of St. Michael, in the 'five and thirtieth year of the reign of our late ſovereign lord king Charles 'the Second, in the court of King's bench at Weſtminſter, by means of 'an unlawful return of Jurors, and by denial of his lawful challenges to 'divers

* Col. Sydney bore this only motto, without figure, on the Parliament's part in the late war, SANCTVS · AMOR · PATRIAE · DAT · ANIMVM.

The art of making deviſes. etc. London, 1650, in quarto.

——— Atque *Sidneium*, quod ego illuſtre nomen noſtris ſemper adhaeſiſſe partibus laetor.

Johannis Miltoni, Angli, pro Populo Anglicano defenſio ſecunda.

[† *Upon the Revolution.*]

See "A letter humbly addreſt to the moſt excellent father of his Country, the wiſe and victorious Prince, King William III. By a dutiful and well-meaning ſubject [the Rev. Mr. Stephens, Rector of Sutton in Surrey.] London, printed by J. Darby, 1698."—in quarto.

——— Nothing therefore could determine that unfortunate King [James II.] to depart once and again, but the fixt reſolution I have already mentioned, to carry through his ſcheme by force; for otherwiſe and if he had been reſolved to give up that ſcheme, after he ſaw ſuch manifeſt proofs of the averſion of the whole nation and of his own family to it, it is eaſy and obvious to ſee what muſt have been his conduct: He would have remained in his palace and granted all the demands of the Prince of *Orange*'s declaration; and agreed to the very thing which You now promiſe by yours, namely, *to refuſe nothing that a free Parliament could have aſked, for the ſecurity of the religion, laws and liberties of his people.*

Now, as he might and ought to have done this and did not do it, which was the only method of retaining his crown, conſiſtent with that ſecurity of the religion and liberties of his people, it is evident, that he did indeed *abdicate* his Crown.

And in reſpect of the many eſſential *miſcarriages* by him *committed* and *perſiſted in*, the people had undeniable reaſons to declare the *Throne vacant*; and having thus far done themſelves juſtice, and provided for their own ſecurity againſt the evils of popery and ſlavery with which they had been threatened, it remained for them to provide for *the future government* of this kingdom by making A NEW SETTLEMENT.

Here it was, *that the wiſdom and moderation of the leading men of this nation, at that time, was diſcovered:* it was a *regal government* though limited by laws, *and they reſolved that it ſhould continue ſuch*, juſtly dreading a relapſe into the anarchy and confuſions, and the deſpotic government of the uſurper, which had ſucceeded the abolition of the royal authority about the middle of that century.

It was a *hereditary kingdom*, though not *indefeaſibly ſuch*; and therefore they departed as little as poſſible from the regular courſe of ſucceſſion in the royal family, and no farther than was neceſſary for ſecuring the liberties of the ſubject. They acted as any wiſe and good man would do, who is maſter of his own eſtate. If his eldeſt ſon proves unworthy, and merits being diſinherited, he will ſettle his eſtate on his ſecond ſon and his iſſue in their order. And thus we ſettled the crown on the eldeſt daughter of the abdicated prince; and in default of her iſſue on the ſecond daughter; in default of her iſſue on the Prince of *Orange* himſelf, who was the next in ſucceſſion, if he ſhould have any by another wife than the Princeſs *Mary*; and when the proſpect of ſucceſſors failed amongſt the proteſtant deſcendants of

'divers of them, for want of freehold, and without ſufficient legal 'evidence of any treaſons committed by him; there being at that time 'produced a paper, found in the cloſet of the ſaid Algernon, ſuppoſed to 'be his hand-writing; which was not proved by the teſtimony of any 'one witneſs, to be written by him; but the jury was directed to believe 'it, by comparing it with other writings of the ſaid Algernon: and 'beſides that paper ſo produced, there was but one ſingle witneſs to prove 'any matter againſt the ſaid Algernon; and by a partial and unjuſt con-'ſtruction of the ſtatute, declaring what was his treaſon, was moſt un-'juſtly

of King *Charles* the Firſt, the Nation looked out for the next proteſtant heir, who was a grandchild of King *James* the Firſt, *and ſettled the crown upon her and the heirs of her body, being proteſtants.*

Thus was the conſtitution maintained, and the government re-eſtabliſhed in its natural and regular ſtate of a *limited* and *hereditary monarchy*, which fell afterwards by ſucceſſion, upon the death of Queen *Anne*, to the late King *George*; a prince who was born of a dignity next to the regal; whoſe family have been remarkable for affording good princes over their ſubjects, whom they are intitled to govern abſolutely; who was himſelf, as mild and amiable a Monarch as ever reigned. He was ſucceeded by our preſent Sovereign, whom all the world *muſt allow to be remarkably poſſeſſed of two virtues* the moſt deſerving of eſteem amongſt mankind, probity and magnanimity: and for the mildneſs of his government, let this ſingular circumſtance bear witneſs; that we are now in the 19th year of his reign, and hitherto not one drop of blood ſhed for a ſtate crime, even in the legal methods of trial, though there have not been wanting occaſions, even before you were pleaſed to make us a viſit, for juſt ſeverities of that kind.

Of this Prince, now reigning, the nation is bleſſed with a numerous and hopeful iſſue; whereof the greater part has been born and educated amongſt ourſelves.

And the caſe ſo ſtanding, *in reſpect to the abdication of your grandfather, and the ſucceeding* NEW SETTLEMENT *of the crown in the proteſtant line of the royal family, which has already taken effect during the ſpace of fifty-ſeven years*, which you mention as the duration of the exile of your family, and urge as being more than ſufficient *atonement* for the *miſcarriages* of your grandfather; You come, Sir, a great deal *too late* with your *profeſſions* of *repentance* and *promiſes* of *amendment*: for as I began with the queſtion of *expediency*, I am now conſidering the queſtion of *right* and *ſtrict juſtice*, and by this You are *cut off*, independent of the former.

This is indeed the true ſtate of the queſtion, where the right and title now lies; and upon this I maintain, that ſuppoſing a great deal which is not true, that your family was not ſtill popiſh, bred at *Rome*, and favour'd by FRANCE THE NATVRAL ENEMY OF GREAT BRITAIN *and the common enemy of the liberties of Europe*; ſuppoſing You were ſincere in your promiſes, *and that your religion did not authoriſe and require You to break them*; and ſuppoſing You perſonally, as I am willing to believe, poſſeſſed of many good qualities becoming a Prince, ſtill You come too late; we cannot liſten to your declaration, though You ſhould lift up your voice like *Eſau* and cry, *Have you but one bleſſing O my People?* For it is true that we have *but one, and that is already conferred and ſettled upon thy Proteſtant Brother*; and we cannot *with juſtice* deprive him of it, ſuppoſing we could do it with prudence, or conſiſtently with the ſecurity of our religion, laws and liberties.

And to make You ſenſible of the force of this conſideration, if You can ſee the truth when it is repugnant to your own intereſt and wiſhes, ſuffer me, etc. etc. etc.

The occaſional writer [a very fine Liberty-tract] Or an anſwer to the ſecond manifeſto of the Pretender's eldeſt ſon, which bears date at the Palace of Holy-Rood-Houſe Oct. 10, 1745; containing reflections political and hiſtorical upon the laſt Revolution, and the progreſs of the preſent Rebellion in Scotland. *Tandem triumphans*, Motto to the Pretender's ſtandard. *Nondum immemores*, Anſwer. The ſecond edition corrected. London, printed for A. Millar, 1746 —in octavo.

'juſtly and wrongfully convicted and attainted, and afterwards executed 'for high treaſon: may it therefore pleaſe your moſt excellent majeſties, 'at the humble petition and requeſt of the right honourable Philip earl 'of Leiceſter, brother and heir of the ſaid Algernon Sydney, and of the 'right honourable Henry viſcount Sydney of Sheppey, the other brother 'of the ſaid Algernon, that it be declared and enacted, etc. That the ſaid 'conviction and attainder be repealed, reverſed, etc. And to the end that 'right be done to the memory of the ſaid Algernon Sydney, deceaſed, 'be it further enacted, That all records and proceedings relating to the 'ſaid attainder be wholly cancelled and taken off the file, or otherwiſe 'defaced and obliterated, to the intent that the ſame may not be viſible 'in after-ages: and that the records and proceedings relating to the ſaid 'conviction, judgment and attainder, in the court of King's-bench, now 'remaining, ſhall and be forthwith brought into the court this preſent 'Eaſter term, and then and there be taken off the file and cancelled.'

Biſhop Burnet's character of him is, 'That he was a man of moſt ex-'traordinary courage; a ſteady man even to obſtinacy; ſincere but of a 'rough and boiſterous temper that could not bear contradiction. He 'ſeemed to be a chriſtian, but in a particular form of his own; he thought 'it was to be like a divine philoſophy in the mind: but he was againſt 'all public worſhip, and every thing that looked like a church. He was 'ſtiff to all republican principles, and ſuch an enemy to every thing that 'looked like a monarchy, that he ſet himſelf in high oppoſition againſt 'Cromwell,

The NEW SETTLEMENT before mentioned, ſeems to have been gratefully perpetuated by that excellent Prince, George I. in the following medals or rather Medaglions, which, it is apprehended, were ſtruck at Hanover by his orders.

I] MATILDA · FILIA · H · II · R · ANGL · VX · H · LEON · D · BAV · ET · SAX · MATER · OTT · IV · IMP · PRIVS · DVCIS · AQVIT · H · PAL · RHEN · D · S · WILH · SATORIS · DOMVS · BRVNS · Buſt of the Empreſs, in profile.

SOPHIA · EX · STIRPAE · EL · PAL · NEPT · IAC · I · REG · M · BRIT · VIDVA · ERN · AVG · EL · BRVNS · ET · L · ANGLIAE · PRINCEPS · AD · SVCCESS · NOMINATA · MDCCI · Buſt of the Princeſs, in profile.

II] SOPHIA · D · G · EX · STIRPE · EL · PAL · ELECT · VID · BR · ET · LVN · MAG · BRIT · HAERES · Buſt of the Princeſs, in profile.

TRANSMISSA · LVCE · REFVLGET · The ſetting ſun, with a view of the garden of Herrenhauſen. In the exurge, OBIIT · VIII · IVN · MDCCXIV

III] GEORGIVS · D · G · MAG · BRIT · FR · ET · HIB · REX · Buſt of the King, in profile.

PRINC · OPT · RELIGIONIS · ET · LIBERTATIS · CVSTODI · Britannia preſenting the Regalia to the King, who is accompanied by Religion and Liberty. In the exurge, PVBLICA · AVCTORITATE · PROCLAMATO · $\frac{I}{XII}$ AUG · ANNO · MDCCXIIII

Three ſmaller medals, about the ſizes of a crown, half crown and ſhilling, were likewiſe ſtruck by him; the faces of which agree with medal II, but the reverſes bear only the following inſcription. NATA · XIII · OCT · MDCXXX · NVPTA · MENSE · SEPT · MDCLVIII · AD · SVCCESSIONEM · M · BRIT · NOMINATA · MDCCI · SVB · VESPERAM · VIII · IVNII · MDCCXIV · IN · HORTIS · HERRENHAVSANIS · ADHVC · VEGETO · ET · FIRMO · PASSV · DEAMBVLANS · SVBITA · ET · PLACIDA · MORTE · EREPTA

'Cromwell, when he was made protector. *He had ſtudied the hiſtory of 'government, in all its branches, beyond any man I ever knew**. He had a 'particular

[* *He had ſtudied the hiſtory of government, in all its branches, beyond any man I ever knew.*]

Lords and Commons of England, conſider what Nation it is wherof ye are, and wherof ye are the governours: a Nation not ſlow and dull, but of a quick, ingenious, and piercing ſpirit, acute to invent, ſuttle and ſinewy to diſcours, not beneath the reach of any point the higheſt that human capacity can ſoar to. Therefore the ſtudies of learning in her deepeſt ſciences have bin ſo ancient, and ſo eminent among us, that writers of good antiquity, and ableſt judgment have bin perſwaded that ev'n the ſchool of *Pythagoras* and the *Perſian* wiſdom took beginning from the old philoſophy of this iſland. And that wiſe and civill Roman, *Julius Agricola*, who govern'd once here for *Caeſar*, preferr'd the naturall wits of Britain, before the labour'd ſtudies of the French.——Behold now this vaſt city; a city of refuge, *the manſion houſe of liberty*, encompaſt and ſurrounded with his protection; the ſhop of warre hath not there more anvils and hammers waking, to faſhion out the plates and inſtruments of armed juſtice in defence of beleagur'd truth, then there be pens and heads there, ſitting by their ſtudious lamps, muſing, ſearching, revolving new notions and idea's wherewith to preſent, as with their homage and their fealty the approaching Reformation: others as faſt reading, trying all things, aſſenting to the force of reaſon and convincement. What could a man require more from a Nation ſo pliant and ſo prone to ſeek after knowledge. What wants there to ſuch a towardly and pregnant ſoile, but wiſe and *faithful* labourers, to make a knowing people, a Nation of prophets, of ſages, and of worthies.——

Areopagitica. A ſpeech of John Milton for the liberty of *unlicenc'd printing*. [GVARD IT YE BRITONS!] To the Parliament of England. London, printed in the yeare 1644—in quarto.

Cromwell ſeemeth to be diſtinguiſhed in the moſt eminent manner, with regard to his abilities, from all other great and wicked men, who have overturned the liberties of their country. The times in which others ſucceeded in this attempt, were ſuch as ſaw the ſpirit of liberty ſuppreſſed and ſtifled by a general luxury and venality: but Cromwell ſubdued his Country, *when this ſpirit was at its height, by a ſucceſsful ſtruggle againſt court oppreſſion; and while it was conducted and ſupported by a ſet of the greateſt geniuſes for government the world ever ſaw.*

The very eminent Prelate, Dr. Warburton, in his notes on Pope's Eſſay on man. *Cromwell* was one of thoſe geniuſes who are oftimes buried in obſcurity, *through want of occaſion of being known.* Thouſands ſpend their lives in retirement, who are capable of greater things than moſt of thoſe whoſe names are toſſed from every tongue and voic'd for wiſe, ſkilful, able, valiant. In times of peace theſe men are little known and notic'd. They are overlook'd among the herd, or treated with a coolneſs or diſregard, *that damps their ambition and eſtabliſhes their virtue.* etc.

The Rev. William Harris, a ſenſible, candid writer, in his "Hiſtorical and critical account of the life of O. Cromwell."

The Parliament of Nov. 3, 1640, that MASTER Parliament having ſingularly promoted learning, witneſs *their pupils*, who figur'd *in all profeſſions* down to and beyond the Revolution, *and obtained it too*; the following note, taken from Dr. John Wallis's "Account of ſome paſſages of his own life, who, in the Year 1644, *was one of the Secretaries to the Aſſembly of Divines at Weſtminſter*, and in the year 1649, *became public Profeſſor of Geometry, of the foundation of Sir Henry Savile, at Oxford*, may not be unacceptable.

"About the year 1645, while I lived in *London*, at a time, when, by our civil wars, academical ſtudies were much interrupted in both our Univerſities, beſides the converſation of divers eminent Divines, as to matters theological, I had the opportunity of being acquainted with divers worthy perſons, inquiſitive into natural philoſophy and other parts of humane learning: and particularly of what hath been called *the new philoſophy or experimental philoſophy.*

We did by agreement, divers of us, meet weekly in *London*, on a certain day, to treat and diſcourſe of ſuch affairs. Of ſuch number were Dr. John Wilkins, afterwards biſhop of Cheſter, Dr. Jonathan Goddard, Dr. George Ent, Dr. Gliſſon, Dr. Merret, doctors in

'particular way of inſinuating himſelf into people, that would hearken to 'his *notions* *, and not contradict him.'

Several manuſcript treatiſes of his in Latin and Italian, and an "Eſſay on virtuous love" in Engliſh, are ſtill extant among the papers of his family at Penſhurſt†: but his "Diſcourſes concerning Government" alone will immortalize his name, and are ſufficient to ſupply the loſs of Cicero's ſix books "De Republica," which have been ſo much regretted by men of ſenſe and probity. In ſhort, it is one of the *nobleſt* books that ever the mind of man produced ‡; and we cannot wiſh a greater or more extenſive bleſſing

phyſic, Mr. Samuel Foſter, then profeſſor of aſtronomy at Greſham College; Mr. Theodore Haak, a German, of the Palatinate and then reſident in London *(who, I think, gave the firſt occaſion and firſt ſuggeſted thoſe meetings)* and many others.

Theſe meetings we held ſometimes at Dr. Goddard's lodgings in Wood-ſtreet, or ſome convenient place near, on occaſion of his keeping an operator for grinding glaſſes for teleſcopes and microſcopes; and ſometimes at a convenient place in Cheapſide; ſometimes at Greſham College or ſome place near adjoining.

Our buſineſs was, precluding matters of theology and ſtate affairs, to diſcourſe and conſider of *philoſophical enquiries*, and ſuch as related thereunto; as phyſic, anatomy, geometry, aſtronomy, navigation, ſtaticks, magneticks, chymicks, mechanicks and natural experiments, with the ſtate of theſe ſtudies, as then cultivated at home and abroad.

About the year 1648, 1649, ſome of us being removed to Oxford, firſt Dr. Wilkins, then I, and ſoon after Dr. Goddard, our company divided. Thoſe in London continued to meet there, as before, and we with them, when we had occaſion to be there. And thoſe of us at Oxford, with Dr. Ward, ſince biſhop of Saliſbury, Dr. Ralph Bathurſt, now preſident of Trinity College in Oxford, Dr. Petty, ſince Sir William Petty, Dr. Willis, then an eminent Phyſician in Oxford, and divers others, continued ſuch meetings in Oxford, *and brought thoſe ſtudies into faſhion there*; meeting firſt at Dr. Pettie's lodgings in an apothecary's houſe, becauſe of the convenience of inſpecting drugs, and the like, as there was occaſion; and after his remove to Ireland, tho' not ſo conſtantly, at the lodgings of Dr. Wilkins, then warden of Wadham college, and after his removal to Trinity College in Cambridge, at the lodgings of the honourable Mr. Robert Boyle, then reſident for divers years in Oxford.

Thoſe meetings in London continued; and, after the King's return in 1660, were increaſed with the acceſſion of divers worthy and honourable perſons; and were afterwards incorporated by the name of *the Royal Society*, etc. and ſo continue to this day."

* *Notions!* a ſtrange word after what had been juſt before declared. But the character is *roughly*, and inaccurately drawn.

† In the year 1744, a work was publiſhed in 2 vol. oct. intitled, "Of the Uſe and Abuſe of Parliaments; in two hiſtorical diſcourſes, viz. I. *A general view of Government in Europe.* II. A Detection of the Parliaments of England, from the Year 1660." To that work the following advertiſement is prefixed. "As an act of juſtice to the memory of a great man, it is neceſſary to acquaint the Reader, that he ſtands indebted for the firſt of the following diſcourſes, to the celebrated *Algernon Sydney.*"

[‡ *It is one of the nobleſt books that ever the mind of man produced.*]

Many circumſtances at preſent loudly call upon us to exert ourſelves. *Venality and corruption have well nigh extinguiſhed all principles of liberty. The bad books alſo that this age hath produced, have ruined our youth. The novels and romances which are eagerly purchaſed and read, emaſculate the mind, and baniſh every thing grave and manly.* One remedy for theſe evils is, *to revive the reading of our old writers, of which we have good ſtore, the ſtudy whereof would fortify our youth againſt the blandiſhments of pleaſure and the arts of corruption.*

MILTON in particular ought to be read and ſtudied by all our young gentlemen as an oracle.

He was a great and noble genius, perhaps the greateſt that ever appeared amongſt men; and his learning was equal to his genius. He had the higheſt ſenſe of liberty, glorious thoughts,

bleſſing to the world, than that it may be every where read, and its principles univerſally received and propagated.

thoughts, with a ſtrong and nervous ſtyle. His works are full of wiſdom, a treaſure of knowledge. In them the Divine, the Stateſman, the Hiſtorian, the Philologiſt, may be all inſtructed and entertained. *It is to be lamented that his divine writings are ſo little known.* Very few are acquainted with them, many have never heard of them. *The ſame is true, with reſpect to another great writer*, contemporary with *Milton*, and an advocate for the ſame glorious cauſe; I mean ALGERNON SYDNEY, *whoſe Diſcourſes Concerning Government are the moſt precious legacy to theſe Nations.*

All Antiquity cannot ſhew two writers equal to theſe. They were both great maſters of reaſon, both great maſters of expreſſion. They had the ſtrongeſt thoughts, and the boldeſt images, and are the beſt models that can be followed. The ſtyle of *Sydney* is always clear and flowing, ſtrong and maſculine. The great *Milton* has a ſtyle of his own, one fit to expreſs the aſtoniſhing ſublimity of his thoughts, the mighty vigour of his ſpirit, and that *copia* of invention, that redundancy of imagination, which no writer before or ſince hath equalled. In ſome places, it is confeſſed, that his periods are too long, which renders him intricate, if not altogether unintelligible to vulgar readers; but theſe places are not many. In the book before us his ſtyle is for the moſt part free and eaſy, and it abounds both in eloquence and wit and argument. I am of opinion that the ſtyle of this work is the beſt and moſt perfect of all his proſe writings. Other men have commended the ſtyle of his *Hiſtory* as matchleſs and incomparable, whoſe malice could not ſee or would not acknowledge the excellency of his other works. It is no ſecret whence their averſion to *Milton* proceeds: and whence their caution of naming him as any other writer than a Poet. *Milton* combated ſuperſtition of every form, and in every degree. Againſt them he imployed his mighty ſtrength, and, like a BATTERING RAM, beat down all before him. But notwithſtanding theſe mean arts either to hide or to diſparage him, a little time will make him better known; and the more he is known, the more he will be admired. His works are not like the fugitive ſhort-lived things of this age, few of which ſurvive their authors: they are ſubſtantial, durable, eternal, writings, which will never die, never periſh, whilſt reaſon, truth and liberty have a being in theſe Nations.

The Editor's preface to Eikonoklaſtes, printed for A. Millar, 1756, in quarto.

There is a long and ſingular paſſage in the *Leviathan*, edit. 1651, p. 110, under this marginal head, "the libertie which writers praiſe is the libertie of Soveraigns not of private men," which concludes in the following manner, "And by reading of theſe *Greek* and *Latine* authors, men from their childhood have gotten a habit, under a falſe ſhew of libertie, of favouring tumults and of licentious controlling the actions of their Soveraigns; and again of controlling thoſe controllers; with the effuſion of ſo much blood, as I think I may truely ſay, there never was any thing *ſo deerly bought*, as theſe weſtern parts have bought the learning of the greek and latine tongues."

The accompliſhed, beneficent Earl of Shafteſbury, in his "Eſſay on the freedom of wit and humour," remarks on this paſſage, "And yet an able and witty Philoſopher of our Nation was, we know, of late years, ſo poſſeſs'd with a horrour of this kind, that both with reſpect to *Politics* and *Morals*, he directly acted in this ſpirit of MASSACRE. The fright he took upon the ſight of the then governing powers, who unjuſtly aſſumed the authority of the People, gave him ſuch an abhorrence of all popular government, *and of the very notion of liberty itſelf*; that to extinguiſh it for ever, he recommends *the very extinguiſhing of letters*, and exhorts Princes not to ſpare ſo much as an antient *Roman* or *Greek* hiſtorian. Is not this in truth ſomewhat *Gothick?* And has not our Philoſopher, in appearance, ſomething of the *ſavage*, that he ſhould uſe Philoſophy and Learning as the *Scythians* are ſaid to have uſed *Anacharſis* and others, for having viſited the *Wiſe* of *Greece* and learnt the manners of a polite People?" And, in the notes, he adds, "By this reaſoning of Mr. *Hobbes* it ſhould follow, that there can never be any tumults or depoſing of Sovereigns at *Conſtantinople* or in *Mogol*."

DISCOURSES CONCERNING GOVERNMENT

CONTENTS OF THE DISCOURSES

CHAPTER I

Section 1. The Introduction. Page 1.
Sect. 2. The common notions of liberty are not from ſchool-divines, but from nature, 3.
Sect. 3. Implicit faith belongs to fools; and truth is comprehended by examining principles, 6.
Sect. 4. The rights of particular nations cannot ſubſiſt, if general principles contrary to them are received as true, 9.
Sect. 5. To depend upon the will of a man is ſlavery, 10.
Sect. 6. God leaves to man the choice of forms in government; and thoſe who conſtitute one form may abrogate it, 12.
Sect. 7. Abraham and the patriarchs were not kings, 16.
Sect. 8. Nimrod was the firſt king during the life of Cuſh, Ham, Shem, and Noah, 17.
Sect. 9. The power of a father belongs only to a father, 20.
Sect. 10. Such as enter into ſociety, muſt in ſome degree diminiſh their liberty, 21.
Sect. 11. No man comes to command many, unleſs by conſent or by force, 22.
Sect. 12. The pretended paternal right is diviſible or indiviſible: if diviſible, it is extinguiſhed; if indiviſible, univerſal, 24.
Sect. 13. There was no ſhadow of a paternal kingdom amongſt the Hebrews, nor precept for it, 26.
Sect. 14. If the paternal right had included dominion, and was to be transferred to a ſingle heir, it muſt periſh, if he were not known; and could be applied to no other perſon, 29.
Sect. 16. The antients choſe thoſe to be kings, who excelled in the virtues that are moſt beneficial to civil ſocieties, 35.
Sect. 17. God, having given the government of the world to no one man nor declared how it ſhould be divided, left it to the will of man, 40.
Sect. 18. If a right of dominion were eſteemed hereditary according to the law of nature, a multitude of deſtructive and inextricable controverſies would thereupon ariſe, 44.
Sect. 19. Kings cannot confer the right of father upon princes, nor princes upon kings, p. 48.
Sect. 20. All juſt magiſtratical power is from the people, 54.

CHAPTER II

Section 1. That it is natural for nations to govern, or to chooſe governors; and that virtue only gives a natural preference of one man above another, or reaſon why one ſhould be choſen rather than another. Page 59.
Sect. 2. Every man that has children has the right of a father, and is capable of preferment in a ſociety compoſed of many, 68.
Sect. 3. Government is not inſtituted for the good of the governor, but of the governed; and power is not an advantage, but a burden, 71.
Sect. 4. The paternal right devolves to, and is inherited by all the children, 72.
Sect. 5. Freemen join together and frame greater or leſs ſocieties, and give ſuch forms to them as beſt pleaſe themſelves, 76.
Sect. 6. They who have a right of chooſing a king, have the right of making a king, 86.
Sect. 7. The laws of every nation are the meaſure of magiſtratical power, 90.
Sect. 8. There is no natural propenſity in man or beaſt to monarchy, 98.
Sect. 9. The government inſtituted by God over the Iſraelites was ariſtocratical, 100.
Sect. 10. Ariſtotle was not ſimply for monarchy or againſt popular government; but approved or diſapproved of either according to circumſtances, 107.
Sect. 11. Liberty produces virtue, order and ſtability: ſlavery is accompanied with vice, weakneſs and miſery, 109.
Sect. 12. The glory, virtue and power of the Romans began and ended with their liberty, 118.
Sect. 13. There is no diſorder or prejudice in changing the name or number of magiſtrates, while the root and principle of their power continues entire, 123.
Sect. 14. No ſedition was hurtful to Rome, till through their proſperity ſome men gained a power above the laws, 126.
Sect. 15. The empire of Rome perpetually decayed, when it fell into the hands of one man, 129.
Sect. 16. The beſt governments of the world have been compoſed of monarchy, ariſtocracy and democracy, 138.
Sect. 17. Good governments admit of changes in the ſuperſtructures, whilſt the foundations remain unchangeable, 142.
Sect. 18. Xenophon, in blaming the diſorders of democracies, favours ariſtocracies, not monarchies, 146.
Sect. 19. That corruption and venality, which is natural to courts, is ſeldom found in popular governments, 155.
Sect. 20. Man's natural love to liberty is tempered by reaſon, which originally is his nature, 162.

Sect. 21. Mixed and popular governments preſerve peace, and manage wars, better than abſolute monarchies. Page 165.
Sect. 22. Commonwealths ſeek peace or war, according to the variety of their conſtitutions, 172.
Sect. 23. That is the beſt government, which provides beſt for war, 178.
Sect. 24. Popular governments are leſs ſubject to civil diſorders than monarchies, manage them more ably, and more eaſily recover out of them, 185.
Sect. 25. Courts are more ſubject to venality and corruption than popular governments, 216.
Sect. 26. Civil tumults and wars are not the greateſt evils that befal nations, 223.
Sect. 27. The miſchiefs and cruelties proceeding from tyranny are greater than any, that can come from popular or mixed governments, 227.
Sect. 28. Men living under popular or mixed governments are more careful of the public good, than in abſolute monarchies, 233.
Sect. 29. There is no aſſurance, that the diſtempers of a ſtate ſhall be cured by the wiſdom of a prince, 241.
Sect. 30. A monarchy cannot be well regulated, unleſs the powers of the monarch are limited by law, 248.
Sect. 31. The liberties of nations are from God and nature, not from kings, 263.
Sect. 32. The contracts made between magiſtrates and the nations that created them were real, ſolemn, and obligatory, 268.

CHAPTER III

Section 1. Kings, not being fathers of their people, nor excelling all others in virtue, can have no other juſt power than what the laws give; nor any title to the privileges of the Lord's anointed, 271.
Sect. 2. The kings of Iſrael and Judah were under a law not ſafely to be tranſgreſſed, 283.
Sect. 3. Samuel did not deſcribe to the Iſraelites the glory of a free monarchy, but the evils the people ſhould ſuffer; that he might divert them from deſiring a king, 286.
Sect. 4. No people can be obliged to ſuffer from their kings what they have not a right to do, 288.
Sect. 5. The miſchiefs ſuffered from wicked kings are ſuch as render it both reaſonable and juſt for all nations, that have virtue and power, to exert both in repelling them, 292.
Sect. 6. It is not good for ſuch nations as will have kings, to ſuffer them to be glorious, powerful, or abounding in riches, 296.
Sect. 7. When the Iſraelites aſked for ſuch a king as the nations about them had, they aſked for a tyrant, though they did not call him ſo, 300.
Sect. 8. Under the name of tribute, no more is underſtood, than what the law of each nation gives to the ſupreme magiſtrate for the defraying of

public charges; to which the cuſtoms of the Romans, or ſufferings of the Jews, have no relation. Page 306.
Sect. 9. Our own laws confirm to us the enjoyment of our native rights, 312.
Sect. 10. The words of St. Paul, injoining obedience to higher powers, favour all ſorts of government no leſs than monarchy, 316.
Sect. 11. That which is not juſt is not law; and that which is not law ought not to be obeyed, 328.
Sect. 12. The right and power of a magiſtrate depends upon his inſtitution, not upon his name, 330.
Sect. 13. Laws were made to direct and inſtruct magiſtrates, and, if they will not be directed, to reſtrain them, 333.
Sect. 14. Laws are not made by kings, not becauſe they are buſied in greater matters than doing juſtice, but becauſe nations will be governed by rule and not arbitrarily, 338.
Sect. 15. A general preſumption, that kings will govern well, is not a ſufficient ſecurity to the people, 343.
Sect. 16. The obſervation of the laws of nature is abſurdly expected from tyrants, who ſet themſelves up againſt all laws; and he that ſubjects kings to no other law, than what is common to tyrants, deſtroys their being, 347.
Sect. 17. Kings cannot be the interpreters of the oaths they take, 353.
Sect. 18. The next in blood to deceaſed kings cannot generally be ſaid to be kings, till they are crowned, 363.
Sect. 19. The greateſt enemy of a juſt magiſtrate is he, who endeavours to invalidate the contract between him and the people, or to corrupt their manners, 378.
Sect. 20. Unjuſt commands are not to be obeyed; and no man is obliged to ſuffer for not obeying ſuch as are againſt law, 382.
Sect. 21. It cannot be for the good of the people, that the magiſtrate have a power above the law; and he is not a magiſtrate who has not his power by law, 385.
Sect. 22. The rigour of the law is to be tempered by men of known integrity and judgment; and not by the prince, who may be ignorant or vicious, 392.
Sect. 23. Ariſtotle proves, that no man is to be entruſted with an abſolute power, by ſhewing that no one knows how to execute it, but ſuch a man as is not to be found, 397.
Sect. 24. The power of Auguſtus Caeſar was not given but uſurped, 399.
Sect. 25. The regal power was not the firſt in this nation; nor neceſſarily to be continued, though it had been the firſt, 401.
Sect. 26. Though the king may be entruſted with the power of chooſing judges, yet that by which they act is from the law, 409.
Sect. 27. Magna Charta was not the original, but a declaration of the Engliſh liberties. The king's power is not reſtrained, but created by that and other laws; and the nation that made them can only correct the defects of them, 417.

Sect. 28. The Engliſh nation has always been governed by itſelf or its repreſentatives. Page 420.
Sect. 29. The king was never maſter of the ſoil, 433.
Sect. 30. Henry the firſt was king of England by as good a title as any of his predeceſſors or ſucceſſors, 437.
Sect. 31. Free nations have a right of meeting when and where they pleaſe, unleſs they deprive themſelves of it, 441.
Sect. 32. The powers of kings are ſo various, according to the conſtitutions of ſeveral ſtates, that no conſequence can be drawn to the prejudice or advantage of any one, merely from the name, 447.
Sect. 33. The liberty of a people is the gift of God and nature, 449.
Sect. 34. No veneration paid, or honour conferred upon a juſt and lawful magiſtrate, can diminiſh the liberty of a nation, 452.
Sect. 35. The authority given by our law to the acts performed by a king de facto, detract nothing from the people's right of creating whom they pleaſe, 455.
Sect. 36. The general revolt of a nation cannot be called a rebellion, 457.
Sect. 37. The Engliſh government was not ill conſtituted; the defects more lately obſerved proceeding from the change of manners and the corruption of the times, 462.
Sect. 38. The power of calling and diſſolving parliaments is not ſimply in the king. The variety of cuſtoms in chooſing parliament-men, and the errors a people may commit, neither prove that kings are or ought to be abſolute, 465.
Sect. 39. Thoſe kings only are heads of the people, who are good, wiſe, and ſeek to advance no intereſt but that of the public, 471.
Sect. 40. Good laws preſcribe eaſy and ſafe remedies againſt the evils proceeding from the vices or infirmities of the magiſtrate; and when they fail, they muſt be ſupplied, 477.
Sect. 41. The people for whom and by whom the magiſtrate is created, can only judge whether he rightly performs his office or not, 481.
Sect. 42. The perſon that wears the crown cannot determine the affairs which the law refers to the king, 486.
Sect. 43. Proclamations are not laws, 491.
Sect. 44. A people that is not free cannot ſubſtitute delegates, 495.
Sect. 45. The legiſlative power is always arbitrary, and not to be truſted in the hands of any, who are not bound to obey the laws they make, 501.
Sect. 46. The coercive power of the law proceeds from the authority of parliament, 503.

DISCOURSES CONCERNING GOVERNMENT

CHAPTER I. SECT. I

INTRODUCTION

Having lately ſeen a book, intitled "Patriarcha," written by Sir Robert Filmer, concerning the univerſal and undiſtinguiſhed right of all kings, I thought a time of leiſure might be well employed in examining his doctrine, and the queſtions ariſing from it; which ſeem ſo far to concern all mankind, that, beſides the influence upon our future life, they may be ſaid to comprehend all that in this world deſerves to be cared for. If he ſay true, there is but one government in the world that can have any thing of juſtice in it: and they, who have hitherto been eſteemed the beſt and wiſeſt of men, for having conſtituted commonwealths or kingdoms, and taken much pains ſo to proportion the powers of ſeveral magiſtracies, that they might all concur in procuring the public good, or ſo to divide the powers between the magiſtrates and people, that a well-regulated harmony might be preſerved in the whole, were the moſt unjuſt and fooliſh of all men. They were not builders, but overthrowers of governments: their buſineſs was to ſet up ariſtocratical, democratical, or mixed governments, in oppoſition to that monarchy, which, by the immutable laws of God and nature, is impoſed upon mankind; or preſumptuouſly to put ſhackles upon the monarch, who, by the ſame laws, is to be abſolute and uncontrouled: they were rebellious and diſobedient ſons, who roſe up againſt their father; and not only refuſed to hearken to his voice, but made him bend to their will. In their opinion, ſuch only deſerved to be called good men, who endeavoured to be good to mankind, or to that country to which they were more particularly related. And, inaſmuch as that good conſiſts in a felicity of eſtate, and perfection of perſon, they highly valued ſuch as had endeavoured to make men better, wiſer, and happier. This they underſtood to be the end for which men entered into ſocieties. And though Cicero ſays, that commonwealths were inſtituted for the obtaining of juſtice, he contradicts them not, but comprehends all in that word; becauſe it is juſt, that whoever receives a power, ſhould employ it wholly for the accompliſhment of the ends for which it was given. This work could be performed only by ſuch as excelled in virtue: but leſt they ſhould deflect from it, no government was thought to be well conſtituted, unleſs the laws prevailed above the commands of men *; and they were

* Potentiora legum quam hominum imperia. Liv. l. 2, c. 1

CHAP. I accounted as the worſt of beaſts, who did not prefer ſuch a condition before a ſubjection to the fluctuating and irregular will of a man.

If we believe Sir Robert, all this is miſtaken; nothing of this kind was ever left to the choice of men; they are not to inquire what conduces to their own good; God and nature have put us into a way from which we are not to ſwerve; we are not to live to him, nor to ourſelves, but to the maſter that he hath ſet over us; one government is eſtabliſhed over all, and no limits can be ſet to the power of the perſon that manages it; this is the prerogative, or, as another author of the ſame ſtamp calls it, "the royal charter" granted to kings by God; they all have an equal right to it; women and children are patriarchs; and the next in blood, without any regard to age, ſex, or other qualities of the mind or body, are fathers of as many nations as fall under their power; we are not to examine, whether he or ſhe be young or old, virtuous or vicious, ſober-minded or ſtark-mad; the right and power is the ſame in all; whether virtue be exalted or ſuppreſſed, whether he that bears the ſword be a praiſe to thoſe that do well, and a terror to thoſe that do evil, or a praiſe to thoſe that do evil, and a terror to ſuch as do well, it concerns us not; for the king muſt not loſe his right, nor have his power diminiſhed, on any account.

I have been ſometimes apt to wonder, how things of this nature could enter into the head of any man; or, if no wickedneſs or folly be ſo great, but ſome may fall into it, I could not well conceive why they ſhould publiſh it to the world. But theſe thoughts ceaſed when I conſidered, that a people from all ages in love with liberty, and deſirous to maintain their own privileges, could never be brought to reſign them, unleſs they were made to believe, that in conſcience they ought to do it; which could not be, unleſs they were alſo perſuaded to believe, that there was a law ſet to all mankind, which none might tranſgreſs, and which put the examination of all thoſe matters out of their power. This is our author's work. By this it will appear whoſe throne he ſeeks to advance, and whoſe ſervant he is, whilſt he pretends to ſerve the king. And that it may be evident he hath made uſe of means ſuitable to the ends propoſed for the ſervice of his great maſter, I hope to ſhew, that he hath not uſed one argument that is not falſe, nor cited one author whom he hath not perverted and abuſed. Whilſt my work is ſo to lay open theſe ſnares, that the moſt ſimple may not be taken in them, I ſhall not examine how Sir Robert came to think himſelf a man fit to undertake ſo great a work, as to deſtroy the principles, which from the beginning ſeem to have been common to all mankind; but only, weighing the poſitions and arguments that he alleges, will, if there be either truth or ſtrength in them, confeſs the diſcovery comes from him that gave us leaſt reaſon to expect it; and that, in ſpite of the antients, there is not in the world a piece of wood, out of which a Mercury may not be made.

SECTION II

THE COMMON NOTIONS OF LIBERTY ARE NOT FROM SCHOOL DIVINES, BUT FROM NATURE.

In the firſt lines of his book he ſeems to denounce war againſt mankind, endeavouring to overthrow the principle of liberty in which God created us, and which includes the chief advantages of the life we enjoy, as well as the greateſt helps towards the felicity, that is the end of our hopes in the other. To this end he abſurdly imputes to the ſchool divines that which was taken up by them as a common notion, written in the heart of every man, denied by none, but ſuch as were degenerated into beaſts, from whence they might prove ſuch points as of themſelves were leſs evident. Thus did Euclid lay down certain axioms, which none could deny that did not renounce common ſenſe, from whence he drew the proofs of ſuch propoſitions as were leſs obvious to the underſtanding. And they may with as much reaſon be accuſed of paganiſm, who ſay that the whole is greater than a part, that two halves make the whole, or that a ſtraight line is the ſhorteſt way from point to point, as to ſay, that they who in politics lay ſuch foundations, as have been taken up by ſchoolmen and others as undeniable truths, do therefore follow them, or have any regard to their authority. Though the ſchoolmen were corrupt, they were neither ſtupid nor unlearned: they could not but ſee that which all men ſaw, nor lay more approved foundations, than, that man is naturally free; that he cannot juſtly be deprived of that liberty without cauſe; and that he doth not reſign it, or any part of it, unleſs it be in conſideration of a greater good, which he propoſes to himſelf. But if he doth unjuſtly impute the invention of this to ſchool divines, he in ſome meaſure repairs his fault in ſaying, "this hath been foſtered by all ſucceeding "papiſts for good divinity; the divines of the reformed churches have "entertained it, and the common people every where tenderly embrace "it." That is to ſay, all chriſtian divines, whether reformed or unreformed, do approve it, and the people every where magnify it, as the height of human felicity. But Filmer, and ſuch as are like to him, being neither reformed nor unreformed chriſtians, nor of the people, can have no title to chriſtianity; and, inaſmuch as they ſet themſelves againſt that which is the height of human felicity, they declare themſelves enemies to all that are concerned in it, that is, to all mankind.

But, ſays he, "they do not remember, that the deſire of liberty was "the firſt cauſe of the fall of man." And I deſire it may not be forgotten, that the liberty aſſerted is not a licentiouſneſs of doing what is pleaſing to every one againſt the command of God, but an exemption from all human laws, to which they have not given their aſſent. If he would make us believe there was any thing of this in Adam's ſin, he ought to have proved, that the law which he tranſgreſſed was impoſed upon him by

CHAP. I man, and, conſequently, that there was a man to impoſe it; for it will eaſily appear, that neither the reformed nor unreformed divines, nor the people following them, do place the felicity of man in an exemption from the laws of God, but in a moſt perfect conformity to them. Our Saviour taught us "not to fear ſuch as could kill the body, but him that could "kill, and caſt into hell;" and the apoſtle tells us, that "we ſhould obey "God rather than man." It has been ever hereupon obſerved, that they, who moſt preciſely adhere to the laws of God, are leaſt ſolicitous concerning the commands of men, unleſs they are well grounded; and thoſe, who moſt delight in the glorious liberty of the ſons of God, do not only ſubject themſelves to him, but are moſt regular obſervers of the juſt ordinances of man, made by the conſent of ſuch as are concerned, according to the will of God.

The error of not obſerving this may perhaps deſerve to be pardoned in a man that had read no books, as proceeding from ignorance; if ſuch as are groſly ignorant can be excuſed, when they take upon them to write of ſuch matters as require the higheſt knowledge: but in Sir Robert it is prevarication and fraud to impute to ſchoolmen and puritans that which in his firſt page he acknowledged to be the doctrine of all reformed and unreformed chriſtian churches, and that he knows to have been the principle in which the Grecians, Italians, Spaniards, Gauls, Germans, and Britons, and all other generous nations ever lived, before the name of Chriſt was known in the world; inſomuch that the baſe effeminate Aſiatics and Africans, for being careleſs of their liberty, or unable to govern themſelves, were by Ariſtotle and other wiſe men called "ſlaves by nature," and looked upon as little different from beaſts.

This which hath its root in common ſenſe, not being to be overthrown by reaſon, he ſpares his pains of ſeeking any; but thinks it enough to render his doctrine plauſible to his own party, by joining the Jeſuits to Geneva, and coupling Buchanan to Doleman as both maintaining the ſame doctrine; though he might as well have joined the puritans with the Turks, becauſe they all think that one and one makes two. But whoever marks the proceedings of Filmer and his maſters, as well as his diſciples, will rather believe, that they have learned from Rome and the Jeſuits to hate Geneva, than that Geneva and Rome can agree in any thing farther, than as they are obliged to ſubmit to the evidence of truth; or that Geneva and Rome can concur in any deſign or intereſt that is not common to mankind.

Theſe men allowed to "the people a liberty of depoſing their princes." This is a "deſperate" opinion. "Bellarmine and Calvin look aſquint at "it." But why is this a deſperate opinion? If diſagreements happen between king and people, why is it a more deſperate opinion to think the king ſhould be ſubject to the cenſures of the people, than the people ſubject to the will of the king? Did the people make the king, or the king make the people? Is the king for the people, or the people for the king? Did God create the Hebrews, that Saul might reign over them? or did they, from

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an opinion of procuring their own good, aſk a king that might judge them, and fight their battles? If God's interpoſition, which ſhall be hereafter explained, do alter the caſe, did the Romans make Romulus, Numa, Tullus Hoſtilius, and Tarquinius Priſcus kings? or did they make or beget the Romans? If they were made kings by the Romans, it is certain, they that made them ſought their own good in ſo doing: and if they were made by and for the city and people, I deſire to know, if it was not better, that, when their ſucceſſors departed from the end of their inſtitution, by endeavouring to deſtroy it, or all that was good in it, they ſhould be cenſured and ejected, than be permitted to ruin that people, for whoſe good they were created? Was it more juſt, that Caligula or Nero ſhould be ſuffered to deſtroy the poor remains of the Roman nobility and people, with the nations ſubject to that empire, than that the race of ſuch monſters ſhould be extinguiſhed, and a great part of mankind, eſpecially the beſt, againſt whom they were moſt fierce, preſerved by their deaths? SECT. 2

I preſume our author thought theſe queſtions might be eaſily decided; and that no more was required to ſhew the fore-mentioned aſſertions were not at all deſperate, than to examine the grounds of them. But he ſeeks to divert us from this inquiry, by propoſing the dreadful conſequences of ſubjecting kings to the cenſures of their people: whereas no conſequence can deſtroy any truth; and the worſt of this is, that if it were received, ſome princes might be reſtrained from doing evil; or puniſhed, if they will not be reſtrained. We are therefore only to conſider, whether the people, ſenate, or any magiſtracy made by and for the people, have, or can have, ſuch a right; for if they have, whatſoever the conſequences may be, it muſt ſtand. And as the one tends to the good of mankind in reſtraining the luſt of wicked kings, the other expoſes them without remedy to the fury of the moſt ſavage of all beaſts. I am not aſhamed in this to concur with Buchanan, Calvin, or Bellarmine; and without envy leave to Filmer, and his aſſociates, the glory of maintaining the contrary.

But notwithſtanding our author's averſion to truth, he confeſſes, "that "Hayward, Blackwood, Barclay, and others, who have bravely vindica- "ted the right of kings in moſt points, do with one conſent admit as an "unqueſtionable truth, and aſſent unto the natural liberty and equality of "mankind, not ſo much as once denying or oppoſing it." And indeed I believe, that though, ſince the ſin of our firſt parents, the earth hath brought forth briars and brambles, and the nature of men hath been fruitful only in vice and wickedneſs; neither the authors he mentions, nor any others, have had impudence enough to deny ſuch evident truth as ſeems to be planted in the hearts of all men; or to publiſh doctrines ſo contrary to common ſenſe, virtue, and humanity, till theſe times. The production of Laud, Manwaring, Sibthorp, Hobbes, Filmer, and Heylin, ſeems to have been reſerved as an additional curſe to complete the ſhame and miſery of our age and country. They, who had wit and learning, with ſomething of ingenuity and modeſty, though they believed, that nations might poſſibly make an ill uſe of their power, and were very deſirous

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CHAP. I to maintain the cauſe of kings, as far as they could put any good colour upon it, yet never denied, that ſome had ſuffered juſtly, (which could not be, if there were no power of judging them) nor ever aſſerted any thing that might arm them with an irreſiſtible power of doing miſchief, animate them to perſiſt in the moſt flagitious courſes, with aſſurance of perpetual impunity, or engage nations in an inevitable neceſſity of ſuffering all manner of outrages. They knew, that the actions of thoſe princes, who were not altogether deteſtable, might be defended by particular reaſons drawn from them, or the laws of their country; and would neither undertake the defence of ſuch as were abominable, nor bring princes, to whom they wiſhed well, into the odious extremity of juſtifying themſelves by arguments that favoured Caligula and Nero, as well as themſelves, and that muſt be taken for a confeſſion, that they were as bad as could be imagined; ſince nothing could be ſaid for them that might not as well be applied to the worſt that had been, or could be. But Filmer, Heylin, and their aſſociates, ſcorning to be reſtrained by ſuch conſiderations, boldly lay the ax to the root of the tree, and rightly enough affirm, "that the whole fabric of" that which they call "popular ſedition would fall to the ground, if the principle of "natural liberty were removed." And, on the other hand, it muſt be acknowledged, that the whole fabric of tyranny will be much weakened, if we prove, that nations have a right to make their own laws, and conſtitute their own magiſtrates; and that ſuch as are ſo conſtituted owe an account of their actions to thoſe by whom, and for whom, they are appointed.

SECTION III

IMPLICIT FAITH BELONGS TO FOOLS; AND TRUTH IS COMPREHENDED BY EXAMINING PRINCIPLES.

Whilſt Filmer's buſineſs is to overthrow liberty and truth, he, in his paſſage, modeſtly profeſſeth "not to meddle with myſteries of ſtate," or "arcana imperii." He renounces thoſe inquiries through an implicit faith, which never entered into the head of any but fools, and ſuch as, through a careleſſneſs of the point in queſtion, acted as if they were ſo. This is the foundation of the papal power; and it can ſtand no longer than thoſe that compoſe the Roman church can be perſuaded to ſubmit their conſciences to the word of the prieſts, and eſteem themſelves diſcharged from the neceſſity of ſearching the ſcriptures, in order to know whether the things that are told them are true or falſe. This may ſhew whether our author or thoſe of Geneva do beſt agree with the Roman doctrine. But his inſtance is yet more ſottiſh than his profeſſion: "an implicit faith," ſays he, "is "given to the meaneſt artificer." I wonder by whom! Who will wear a ſhoe that hurts him, becauſe the ſhoemaker tells him it is well made? or who will live in a houſe that yields no defence againſt the extremities of weather, becauſe the maſon or carpenter aſſures him it is a very good houſe?

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Such as have reaſon, underſtanding, or common ſenſe, will, and ought to make uſe of it in thoſe things that concern themſelves, and their poſterity, and ſuſpect the words of ſuch as are intereſted in deceiving or perſuading them not to ſee with their own eyes, that they may be more eaſily deceived. This rule obliges us ſo far to ſearch into matters of ſtate, as to examine the original principles of government in general, and of our own in particular. We cannot diſtinguiſh truth from falſhood, right from wrong, or know what obedience we owe to the magiſtrate, or what we may juſtly expect from him, unleſs we know what he is, why he is, and by whom he is made to be what he is. Theſe perhaps may be called "myſteries of ſtate," and ſome would perſuade us they are to be eſteemed "arcana;" but whoever confeſſes himſelf to be ignorant of them, muſt acknowledge that he is incapable of giving any judgment upon things relating to the ſuperſtructure: and in ſo doing evidently ſhews to others, that they ought not at all to hearken to what he ſays. SECT. 3

His argument to prove this is more admirable: "if an implicit faith," ſays he, "is given to the meaneſt artificer in his own craft, much more is it "due to a prince in the profound ſecrets of government." But where is the conſequence? If I truſt to the judgment of an artificer, or one of a more ingenuous profeſſion, it is not becauſe he is of it, but becauſe I am perſuaded he does well underſtand it, and that he will be faithful to me in things relating to his art. I do not ſend for Lower or Micklethwait when I am ſick, nor aſk the advice of Mainard or Jones in a ſuit of law, becauſe the firſt are phyſicians, and the other lawyers; but becauſe I think them wiſe, learned, diligent, and faithful, there being a multitude of others who go under the ſame name, whoſe opinion I would never aſk. Therefore if any concluſion can be drawn from thence in favour of princes, it muſt be of ſuch as have all the qualities of ability and integrity, that ſhould create this confidence in me; or it muſt be proved, that all princes, inaſmuch as they are princes, have ſuch qualities. No general concluſion can be drawn from the firſt caſe, becauſe it muſt depend upon the circumſtances, which ought to be particularly proved. And if the other be aſſerted, I deſire to know whether Caligula, Claudius, Nero, Vitellius, Domitian, Commodus, Heliogabalus, and others not unlike to them, had thoſe admirable endowments, upon which an implicit faith ought to have been grounded; how they came by them; and whether we have any promiſe from God, that all princes ſhould for ever excel in thoſe virtues; or whether we by experience find that they do ſo. If they are or have been wanting in any, the whole falls to the ground; for no man enjoys, as a prince, that which is not common to all princes. And if every prince have not wiſdom to underſtand theſe profound ſecrets, integrity to direct him, according to what he knows to be good, and a ſufficient meaſure of induſtry and valour to protect me, he is not the artificer, to whom the implicit faith is due. His eyes are as ſubject to be "dazzled" as my own. But it is a ſhame to inſiſt on ſuch a point as this. We ſee princes of all ſorts; they are born as other men. The vileſt flatterer dares not deny, that they are wiſe or fooliſh,

CHAP. I foolish, good or bad, valiant or cowardly, like other men; and the crown doth neither bestow extraordinary qualities, ripen such as are found in princes sooner than in the meanest, nor preserve them from the decays of age, sickness, or other accidents, to which all men are subject: and if the greatest king in the world falls into them, he is as incapable of that mysterious knowledge, and his judgment is as little to be relied on, as that of the poorest peasant.

This matter is not mended by sending us to seek those virtues in the ministers, which are wanting in the prince. The ill effects of Rehoboam's folly could not be corrected by the wisdom of Solomon's counsellors: he rejected them; and such as are like to him will always do the same thing. Nero advised with none but musicians, players, chariot-drivers, or the abominable ministers of his pleasures and cruelties. Arcadius's senate was chiefly composed of buffoons and cooks, influenced by an old rascally eunuch. And it is an eternal truth, that a weak or wicked prince can never choose a wise council, nor receive any benefit by one that is imposed upon him, unless they have a power of acting without him; which would render the government in effect aristocratical, and would probably displease our author as much as if it were so in name also. Good and wise counsellors do not grow up like mushrooms: great judgment is required in choosing and preparing them. If a weak or vicious prince should be so happy to find them chosen to his hand, they would avail him nothing. There will ever be variety of opinions amongst them; and he that is of a perverted judgment will always choose the worst of those that are proposed, and favour the worst men, as most like to himself. Therefore, if this implicit faith be grounded upon a supposition of profound wisdom in the prince, the foundation is overthrown, and cannot stand; for to repose confidence in the judgment and integrity of one that has none, is the most brutish of all follies. So that if a prince may have or want the qualities, upon which my faith in him can be rationally grounded, I cannot yield the obedience he requires, unless I search into the secrets relating to his person and commands, which he forbids. I cannot know how to obey, unless I know in what, and to whom; nor in what, unless I know what ought to be commanded; nor what ought to be commanded, unless I understand the original right of the commander, which is the great arcanum. Our author, finding himself involved in many difficulties, proposes an expedient as ridiculous as any thing that had gone before, being nothing more than an absurd begging the main question, and determining it without any shadow of proof. He injoins an active or passive obedience, before he shews what should oblige or persuade us to it. This indeed were a compendious way of obviating that which he calls popular sedition, and of exposing all nations, that fall under the power of tyrants, to be destroyed utterly by them. Nero or Domitian would have desired no more, than that those, who would not execute their wicked commands, should patiently have suffered their throats to be cut by such as were less scrupulous. And the world, that had suffered those monsters for some years, must have continued

tinued under their fury, till all that was good and virtuous had been abo- SECT. 4
liſhed. But in thoſe ages and parts of the world, where there hath been any thing of virtue and goodneſs, we may obſerve a third ſort of men, who would neither do villainies, nor ſuffer more than the laws did permit, or the conſideration of the public peace did require. Whilſt tyrants, with their ſlaves, and the inſtruments of their cruelties, were accounted the dregs of mankind, and made the objects of deteſtation and ſcorn, theſe men, who delivered their countries from ſuch plagues, were thought to have ſomething of divine in them, and have been famous above all the reſt of mankind to this day. Of this ſort were Pelopidas, Epaminondas, Thraſybulus, Harmodius, Ariſtogiton, Philopoemen, Lucius Brutus, Publius Valerius, Marcus Brutus, Caius Caſſius, Marcus Cato, with a multitude of others amongſt the ancient heathens. Such as were inſtruments of the like deliverances amongſt the Hebrews, as Moſes, Othniel, Ehud, Barak, Gideon, Samſon, Jephthah, Samuel, David, Jehu, the Maccabees and others, have from the Scriptures a certain teſtimony of the righteouſneſs of their proceedings, when they neither would act what was evil, nor ſuffer more than was reaſonable. But leſt we ſhould learn by their examples, and the praiſes given to them, our author confines the choice of the ſubject to acting or ſuffering, that is, doing what is commanded, or lying down to have his throat cut, or to ſee his family and country made deſolate. This he calls giving to Caeſar that which is Caeſar's. Whereas he ought to have conſidered, that the queſtion is not, whether that which is Caeſar's ſhould be rendered to him, for that is to be done to all men; but who is Caeſar, and what doth of right belong to him, which he no way indicates to us: ſo that the queſtion remains entire, as if he had never mentioned it, unleſs we do in a compendious way take his word for the whole.

SECTION IV

THE RIGHTS OF PARTICULAR NATIONS CANNOT SUBSIST, IF GENERAL PRINCIPLES CONTRARY TO THEM ARE RECEIVED AS TRUE.

Notwithſtanding this, our author, if we will believe him, "doth not "queſtion or quarrel at the rights or liberties of this or any other nation." He only denies they can have any ſuch, but in ſubjecting them neceſſarily and univerſally to the will of one man; and ſays not a word that is not applicable to every nation in the world, as well as to our own. But as the bitterneſs of his malice ſeems to be more eſpecially directed againſt England, I am inclined to believe he hurts other countries only by accident, as the famous French lady * intended only to poiſon her father, huſband, brother, and ſome more of her neareſt relations; but rather than they ſhould eſcape,

* The Marchioneſs de Brinvilliers.

CHAP. I deſtroyed many other perſons of quality, who at ſeveral times dined with them. And if that ought to excuſe her, I am content he alſo ſhould paſs uncenſured; though his crimes are incomparably greater than thoſe for which ſhe was condemned, or than any can be which are not of a public extent.

SECTION V

TO DEPEND UPON THE WILL OF A MAN IS SLAVERY.

This, as he thinks, is farther ſweetened, by aſſerting, that he does not inquire what the rights of a people are, but from whence: not conſidering, that while he denies they can proceed from the laws of natural liberty, or any other root than "the grace and bounty of the prince," he declares they can have none at all. For, as liberty ſolely conſiſts in an independency upon the will of another, and by the name of ſlave we underſtand a man, who can neither diſpoſe of his perſon nor goods, but enjoys all at the will of his maſter, there is no ſuch thing in nature as a ſlave, if thoſe men or nations are not ſlaves, who have no other title to what they enjoy, than the grace of the prince, which he may revoke whenever he pleaſes. But there is more than ordinary extravagance in his aſſertion, that "the "greateſt liberty in the world is for a people to live under a monarch," when his whole book is to prove, that this monarch has his right from God and nature, is endowed with an unlimited power of doing what he pleaſes, and can be reſtrained by no law. If it be liberty to live under ſuch a government, I deſire to know what is ſlavery. It has been hitherto believed in the world, that the Aſſyrians, Medes, Arabs, Egyptians, Turks, and others like them, lived in ſlavery, becauſe their princes were maſters of their lives and goods: whereas the Grecians, Italians, Gauls, Germans, Spaniards, and Carthaginians, as long as they had any ſtrength, virtue, or courage amongſt them, were eſteemed free nations, becauſe they abhorred ſuch a ſubjection. They were, and would be governed only by laws of their own making: "potentiora erant legum quam hominum imperia." Even their princes had the authority or credit of perſuading, rather than the power of commanding. But all this was miſtaken: theſe men were ſlaves, and the Aſiatics were freemen. By the ſame rule the Venetians, Switzers, Griſons, and Hollanders, are not free nations: but liberty in its perfection is enjoyed in France and Turky. The intention of our anceſtors was, without doubt, to eſtabliſh this amongſt us by Magna Charta, and other preceding or ſubſequent laws; but they ought to have added one clauſe, that the contents of them ſhould be in force only ſo long as it ſhould pleaſe the king. King Alfred, upon whoſe laws Magna Charta was grounded, when he ſaid the Engliſh nation was as free as the internal thoughts of a man, did only mean, that it ſhould be ſo, as long as it pleaſed their maſter. This, it ſeems, was the end of our law, and we, who are born under it, and

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are deſcended from ſuch as have ſo valiantly defended their rights againſt the encroachments of kings, have followed after vain ſhadows, and without the expence of ſweat, treaſure, or blood, might have ſecured our beloved liberty, by caſting all into the king's hands. SECT. 5

We owe the diſcovery of theſe ſecrets to our author, who, after having ſo gravely declared them, thinks no offence ought to be taken at the freedom he aſſumes of examining things relating to the liberty of mankind, becauſe he has the right which is common to all. But he ought to have conſidered, that in aſſerting that right to himſelf, he allows it to all mankind. And as the temporal good of all men conſiſts in the preſervation of it, he declares himſelf to be a mortal enemy to thoſe who endeavour to deſtroy it. If he were alive, this would deſerve to be anſwered with ſtones rather than words. He that oppugns the public liberty, overthrows his own, and is guilty of the moſt brutiſh of all follies, whilſt he arrogates to himſelf that which he denies to all men.

I cannot but commend his modeſty and care "not to detract from the "worth of learned men." But it ſeems they were all ſubject to error, except himſelf, who is rendered infallible through pride, ignorance, and impudence. But if Hooker and Ariſtotle were wrong in their fundamentals concerning natural liberty, how could they be in the right when they built upon it? or if they did miſtake, how can they deſerve to be cited? or rather, why is ſuch care taken to pervert their ſenſe? It ſeems, our author is by their errors brought to the knowledge of the truth. "Men have "heard of a dwarf ſtanding upon the ſhoulders of a giant, who ſaw far-"ther than the giant:" but now that the dwarf ſtanding on the ground ſees that which the giant did overlook, we muſt learn from him. If there be ſenſe in this, the giant muſt be blind, or have ſuch eyes only as are of no uſe to him. He minded only the things that were far from him. Theſe great and learned men miſtook the very principle and foundation of all their doctrine. If we will believe our author, this misfortune befel them becauſe they too much truſted to the ſchoolmen. He names Ariſtotle; and, I preſume, intends to comprehend Plato, Plutarch, Thucydides, Xenophon, Polybius, and all the ancient Grecians, Italians, and others who aſſerted the natural freedom of mankind, only in imitation of the ſchoolmen, to advance the power of the pope; and would have compaſſed their deſign, if Filmer, and his aſſociates, had not oppoſed them. Theſe men had taught us to make "the unnatural diſtinction between royaliſt and "patriot," and kept us from ſeeing, "that the relation between king and "people is ſo great, that their well being is reciprocal." If this be true, how came Tarquin to think it good for him to continue king at Rome, when the people would turn him out? or the people to think it good for them to turn him out, when he deſired to continue in? Why did the Syracuſians deſtroy the tyranny of Dionyſius, which he was not willing to leave, till he was pulled out by the heels? How could Nero think of burning Rome? Or why did Caligula wiſh the people had but one neck, that he might ſtrike it off at one blow, if their welfare was thus reciprocal? It

CHAP. I

is not enough to ſay, theſe were wicked or mad men; for other princes may be ſo alſo; and there may be the ſame reaſon of differing from them. For if the propoſition be not univerſally true, it is not to be received as true in relation to any, till it be particularly proved; and then it is not to be imputed to the quality of the prince, but to the perſonal virtue of the man.

I do not find any great matters in the paſſages taken out of Bellarmine, which, our author ſays, comprehend the ſtrength of all that ever he had heard, read, or ſeen produced for the natural liberty of the ſubject; but as he does not inform us where they are to be found, I do not think myſelf obliged to examine all his works, to ſee whether they are rightly cited or not. However, there is certainly nothing new in them: we ſee the ſame, as to the ſubſtance, in thoſe who wrote many ages before him, as well as in many that have lived ſince his time, who neither minded him, nor what he had written. I dare not take upon me to give an account of his works, having read few of them. But, as he ſeems to have laid the foundation of his diſcourſes in ſuch common notions as were aſſented to by all mankind, thoſe who follow the ſame method have no more regard to jeſuitiſm and popery, though he was a jeſuit and a cardinal, than they who agree with Faber, and other jeſuits, in the principles of geometry, which no ſober man did ever deny.

SECTION VI

GOD LEAVES TO MAN THE CHOICE OF FORMS IN GOVERNMENT; AND THOSE WHO CONSTITUTE ONE FORM MAY ABROGATE IT.

But Sir Robert "deſires to make obſervations on Bellarmine's words, be-"fore he examines or refutes them." And indeed it were not poſſible to make ſuch ſtuff of his doctrine as he does, if he had examined or did underſtand it. Firſt, he very wittily concludes, "that if, by the law of "God, the power be immediately in the people, God is the author of a "democracy." And why not, as well as of a tyranny? Is there any thing in it repugnant to the being of God? Is there more reaſon to impute to God Caligula's monarchy, than the democracy of Athens? Or is it more for the glory of God, to aſſert his preſence with the Ottoman or French monarchs, than with the popular governments of the Switzers and Griſons? Is pride, malice, luxury, and violence ſo ſuitable to his being, that they who exerciſe them are to be reputed his miniſters? And is modeſty, humility, equality, and juſtice ſo contrary to his nature, that they who live in them ſhould be thought his enemies? Is there any abſurdity in ſaying, that, ſince God in goodneſs and mercy to mankind hath, with an equal hand, given to all the benefit of liberty, with ſome meaſure of underſtanding how to employ it, it is lawful for any nation, as occaſion ſhall require, to give the exerciſe of that power to one or more men, under certain limitations and conditions; or to retain it to themſelves, if they think

think it good for them? If this may be done, we are at an end of all controverſies concerning one form of government eſtabliſhed by God, to which all mankind muſt ſubmit; and we may ſafely conclude, that having given to all men, in ſome degree, a capacity of judging what is good for themſelves, he hath granted to all likewiſe a liberty of inventing ſuch forms as pleaſe them beſt, without favouring one more than another. SECT. 6

His ſecond obſervation is grounded upon a falſity in matter of fact. Bellarmine does not ſay, that "democracy is an ordinance of God" more than any other government; nor that the people have no power to make uſe of their right; but that they do, that is to ſay ordinarily, tranſmit the exerciſe of it to one or more. And it is certain they do ſometimes, eſpecially in ſmall cities, retain it in themſelves. But whether that were obſerved or not by Bellarmine, makes nothing to our cauſe, which we defend, and not him.

The next point is ſubtile; and he thinks thereby to have brought Bellarmine, and ſuch as agree with his principle, to a nonplus. He doubts who ſhall judge of the lawful cauſe of changing the government; and ſays, it is a "peſtilent concluſion" to place that power in the multitude. But why ſhould this be eſteemed peſtilent? or to whom? If the allowance of ſuch a power to the ſenate was peſtilent to Nero, it was beneficial to mankind; and the denial of it, which would have given to Nero an opportunity of continuing in his villainies, would have been peſtilent to the beſt of men, whom he endeavoured to deſtroy, and to all others that received benefit from them. But this queſtion depends upon another: for if governments are conſtituted for the pleaſure, greatneſs, or profit of one man, he muſt not be interrupted; the oppoſing of his will, is to overthrow the inſtitution. On the other ſide, if the good of the governed be ſought, care muſt be taken that the end be accompliſhed, though it be with the prejudice of the governor. If the power be originally in the multitude, and one or more men, to whom the exerciſe of it, or a part of it was committed, had no more than their brethren, till it was conferred on him or them, it cannot be believed, that rational creatures would advance one, or a few of their equals above themſelves, unleſs in conſideration of their own good; and then I find no inconvenience in leaving to them a right of judging, whether this be duly performed or not. We ſay in general, "he that inſtitutes, may alſo abrogate*;" more eſpecially when the inſtitution is not only by, but for himſelf. If the multitude therefore do inſtitute, the multitude may abrogate; and they themſelves, or thoſe who ſucceed in the ſame right, can only be fit judges of the performance of the ends of the inſtitution. Our author may perhaps ſay, the public peace may be hereby diſturbed: but he ought to know, there can be no peace, where there is no juſtice; nor any juſtice, if the government inſtituted for the good of a nation be turned to its ruin. But in plain Engliſh, the inconvenience, with which ſuch as he endeavour

* Cujus eſt inſtituere, ejus eſt abrogare.

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CHAP. I. to affright us, is no more than that he or they, to whom the power is given, may be reſtrained or chaſtiſed, if they betray their truſt; which I preſume will diſpleaſe none, but ſuch as would rather ſubject Rome, with the beſt part of the world depending upon it, to the will of Caligula or Nero, than Caligula or Nero to the judgment of the ſenate and people; that is, rather expoſe many great and brave nations to be deſtroyed by the rage of a ſavage beaſt, than ſubject that beaſt to the judgment of all, or the choiceſt men of them, who can have no intereſt to pervert them, or other reaſon to be ſevere to him, than to prevent the miſchiefs he would commit, and to ſave the people from ruin.

In the next place he recites an argument of Bellarmine, that "it is "evident in Scripture God hath ordained powers; but God hath given "them to no particular perſon, becauſe by nature all men are equal; "therefore he hath given power to the people or multitude." I leave him to untie that knot, if he can; but, as it is uſual with impoſtors, he goes about by ſurmiſes to elude the force of this argument, pretending that in ſome other place he had contradicted himſelf, and acknowledged that every man was prince of his poſterity; "becauſe, that if many men had "been created together, they ought all to have been princes of their "poſterity." But it is not neceſſary to argue upon paſſages cited from authors, when he that cites them may be juſtly ſuſpected of fraud, and neither indicates the place nor treatiſe, leſt it ſhould be detected; more eſpecially when we are no way concerned in the author's credit. I take Bellarmine's firſt argument to be ſtrong; and if he in ſome place did contradict it, the hurt is only to himſelf. But in this particular I ſhould not think he did it, though I were ſure our author had faithfully repeated his words; for in allowing every man to be prince of his poſterity, he only ſays, every man ſhould be chief in his own family, and have a power over his children, which no man denies. But he does not underſtand Latin, who thinks that the word "princeps" doth in any degree ſignify an abſolute power, or a right of tranſmitting it to his heirs and ſucceſſors, upon which the doctrine of our author wholly depends. On the contrary, the ſame law that gave to my father a power over me, gives me the like over my children; and if I had a thouſand brothers, each of them would have the ſame over their children. Bellarmine's firſt argument therefore being no way enervated by the alleged paſſage, I may juſtly inſiſt upon it, and add, that God has not only declared in Scripture, but written on the heart of every man, that as it is better to be clothed, than to go naked, to live in a houſe, than to lie in the fields, to be defended by the united force of a multitude, than to place the hopes of his ſecurity ſolely in his own ſtrength, and to prefer the benefits of ſociety, before a ſavage and barbarous ſolitude, he has alſo taught them to frame ſuch ſocieties, and to eſtabliſh ſuch laws as were neceſſary to preſerve them. And we may as reaſonably affirm, that mankind are for ever obliged to uſe no other clothes than leather breeches, like Adam, to live in hollow trees, and eat acorns, or to ſeek after the model of his houſe for a habitation, and to

uſe no arms except ſuch as were known to the patriarchs, as to think all nations for ever obliged to be governed, as they governed their families. This I take to be the genuine ſenſe of the Scripture, and the moſt reſpectful way of interpreting the places relating to our purpoſe. It is hard to imagine, that God, who has left all things to our choice, that are not evil in themſelves, ſhould tie us up in this; and utterly incredible, that he ſhould impoſe upon us a neceſſity of following his will, without declaring it to us. Inſtead of conſtituting a government over his people, conſiſting of many parts, which we take to be a model fit to be imitated by others, he might have declared in a word, that the eldeſt man of the eldeſt line ſhould be king; and that his will ought to be their law. This had been more ſuitable to the goodneſs and mercy of God, than to leave us in a dark labyrinth, full of precipices; or rather, to make the government given to his own people, a falſe light to lead us to deſtruction. This could not be avoided, if there were ſuch a thing as our author calls a "lord paramount over his childrens children to all generations." We ſee nothing in Scripture, of precept or example, that is not utterly abhorrent to this chimera. The only ſort of kings mentioned there with approbation, is ſuch a one "as may not raiſe his heart above his brethren *." If God had conſtituted a lord paramount with an abſolute power, and multitudes of nations were to labour and fight for his greatneſs and pleaſure, this were to raiſe his heart to a height, that would make him forget he was a man. Such as are verſed in Scripture not only know, that it neither agrees with the letter nor ſpirit of that book; but that it is unreaſonable in itſelf, unleſs he were of a ſpecies different from the reſt of mankind. His exaltation would not agree with God's indulgence to his creatures, though he were the better for it; much leſs when probably he would be made more unhappy, and worſe, by the pride, luxury, and other vices, that always attend the higheſt fortunes. It is no leſs incredible, that God, who diſpoſes all things in wiſdom and goodneſs, and appoints a due place for all, ſhould, without diſtinction, ordain ſuch a power, to every one ſucceeding in ſuch a line, as cannot be executed; the wiſe would refuſe, and fools cannot take upon them the burden of it, without ruin to themſelves, and ſuch as are under them: or expoſe mankind to a multitude of other abſurdities and miſchiefs; ſubjecting the aged to be governed by children; the wiſe, to depend on the will of fools; the ſtrong and valiant, to expect defence from the weak or cowardly; and all in general to receive juſtice from him, who neither knows nor cares for it. SECT. 6

* Deut. c. 17, v. 20.

SECTION VII

ABRAHAM AND THE PATRIARCHS WERE NOT KINGS.

If any man ſay, that we are not to ſeek into the depth of God's counſels, I anſwer, that if he had, for reaſons known only to himſelf, affixed ſuch a right to any one line, he would have ſet a mark upon thoſe who come of it, that nations might know to whom they owe ſubjection; or given ſome teſtimony of his preſence with Filmer and Heylin, if he had ſent them to reveal ſo great a myſtery. Till that be done, we may ſafely look upon them as the worſt of men, and teachers only of lies and follies. This perſuades me a little to examine, what would have been, if God had at once created many men, or what concluſions can be drawn from Adam's having been alone. Nothing can be more evident, than that, if many had been created, they had been all equal, unleſs God had given a preference to one. All their ſons had inherited the ſame right after their death; and no dream was ever more empty, than his whimſy of Adam's kingdom, or that of the enſuing patriarchs. To ſay the truth, it is hard to ſpeak ſeriouſly of Abraham's kingdom, or to think any man to be in earneſt who mentions it. He was a ſtranger, and a pilgrim in the land where he lived, and pretended to no authority beyond his own family, which conſiſted only of a wife and ſlaves. He lived with Lot as with his equal, and would have no conteſt with him, becauſe they were brethren. His wife and ſervants could neither make up, nor be any part of a kingdom, inaſmuch as the deſpotical government, both in practice and principle, differs from the regal. If his kingdom was to be grounded on the paternal right, it vaniſhed away of itſelf; he had no child; Eliezer of Damaſcus, for want of a better, was to be his heir; Lot, though his nephew, was excluded; he durſt not own his own wife; he had not one foot of land, till he bought a field for a burying place; his three hundred and eighteen men were ſervants, bought according to the cuſtom of thoſe days, or their children; and the war he made with them, was like to Gideon's enterprize; which ſhews only that God can ſave by a few as well as by many, but makes nothing to our author's purpoſe. For if they had been as many in number as the army of Semiramis, they could have no relation to the regal, much leſs to the paternal power; for a father doth not buy, but beget children.

Notwithſtanding this, our author beſtows the proud title of lord paramount upon him, and tranſmits it to Iſaac, who was indeed a king like his father, great, admirable, and glorious, in wiſdom and holineſs, but utterly void of all worldly ſplendor or power. This ſpiritual kingdom was inherited by Jacob, whoſe title to it was not founded on prerogative of birth, but election, and peculiar grace; but he never enjoyed any other worldly inheritance, than the field and cave which Abraham had bought for a burying place, and the goods he had gained in Laban's ſervice.

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The example of Judah's ſentence upon Tamar is yet farther from the purpoſe, if it be poſſible; for he was then a member of a private family, the fourth ſon of a father then living; neither in poſſeſſion, nor under the promiſe of the privileges of primogeniture, though Reuben, Simeon, and Levi, fell from it by their ſins. Whatever therefore the right was, which belonged to the head of the family, it muſt have been in Jacob; but as he profeſſed himſelf a keeper of ſheep, as his fathers had been, the exerciſe of that employment was ſo far from regal, that it deſerves no explication. If that act of Judah is to be imputed to a royal power, I have as much as I aſk. He, though living with his father, and elder brothers, when he came to be of age to have children, had the ſame power over ſuch, as were of, or came into his family, as his father had over him; for none can go beyond the power of life and death: the ſame, in the utmoſt extent, cannot at the ſame time equally belong to many. If it be divided equally, it is no more than that univerſal liberty which God hath given to mankind; and every man is a king, till he diveſt himſelf of his right, in conſideration of ſomething that he thinks better for him. SECT. 8

SECTION VIII

NIMROD WAS THE FIRST KING, DURING THE LIFE OF CUSH, HAM, SHEM, AND NOAH.

The creation is exactly deſcribed in the Scripture; but we know ſo little of what paſſed between the finiſhing of it and the flood, that our author may ſay what he pleaſes, and I may leave him to ſeek his proofs where he can find them. In the mean time, I utterly deny, that any power did remain in the heads of families after the flood, that does in the leaſt degree reſemble the regal in principle or practice. If in this I am miſtaken, ſuch power muſt have been in Noah, and tranſmitted to one of his ſons. The Scripture ſays only, that he built an altar, ſacrificed to the Lord, was a huſbandman, planted a vineyard, and performed ſuch offices as bear nothing of the image of a king, for the ſpace of three hundred and fifty years. We have reaſon to believe, that his ſons after his death continued in the ſame manner of life, and the equality properly belonging to brethren. It is not eaſy to determine, whether Shem or Japhet was the elder; but Ham is declared to be the younger *; and Noah's bleſſing to Shem ſeems to be purely prophetical and ſpiritual, of what ſhould be accompliſhed in his poſterity; with which Japhet ſhould be perſuaded to join. If it had been worldly, the whole earth muſt have been brought under him, and have for ever continued in his race; which never was ac-

* Gen. c. 9, v. 24

CHAP. I compliſhed, otherwiſe than in the ſpiritual kingdom of Chriſt, which relates not to our author's lord paramount.

As to earthly kings, the firſt of them was Nimrod, the ſixth ſon of Cuſh the ſon of Ham, Noah's younger and accurſed ſon. This kingdom was ſet up about a hundred and thirty years after the flood, whilſt Cuſh, Ham, Shem, and Noah, were yet living; whereas if there were any thing of truth in our author's propoſition, all mankind muſt have continued under the government of Noah whilſt he lived; and that power muſt have been tranſmitted to Shem, who lived about three hundred and ſeventy years after the erection of Nimrod's kingdom; and muſt have come to Japhet, if he was the elder; but could never come to Ham, who is declared to have been certainly the younger, and condemned to be a ſervant to them both; much leſs to the younger ſon of his ſon, whilſt he, and thoſe to whom he and his poſterity were to be ſubjects, were ſtill living.

This rule therefore, which the partiſans of abſolute monarchy fancy to be univerſal and perpetual, falling out, in its firſt beginning, directly contrary to what they aſſert, and being never known to have been recovered, were enough to ſilence them, if they had any thing of modeſty, or regard to truth. But the matter may be carried farther: for the Scripture not only teſtifies, that this kingdom of Nimrod was an uſurpation, void of all right, proceeding from the moſt violent and miſchievous vices, but exerciſed with the utmoſt fury, that the moſt wicked man of the accurſed race, who ſet himſelf up againſt God, and all that is good, could be capable of. The progreſs of this kingdom was ſuitable to its inſtitution: that which was begun in wickedneſs, was carried on with madneſs, and produced confuſion. The mighty hunter, whom the beſt interpreters call a cruel tyrant, receding from the ſimplicity and innocence of the patriarchs, who were huſbandmen or ſhepherds, arrogating to himſelf a dominion over Shem, to whom he and his fathers were to be ſervants, did thereby ſo peculiarly become the heir of God's curſe, that whatever has been ſaid to this day, of the power that did moſt directly ſet itſelf againſt God and his people, has related literally to the Babel that he built, or figuratively to that which reſembles it in pride, cruelty, injuſtice, and madneſs.

But the ſhameleſs rage of ſome of theſe writers is ſuch, that they rather chooſe to aſcribe the beginning of their idol to this odious violence, than to own it from the conſent of a willing people; as if they thought, that as all action muſt be ſuitable to its principle, ſo that which is unjuſt in its practice ought to ſcorn to be derived from that which is not deteſtable in its principle. It is hardly worth our pains to examine, whether the nations, that went from Babel after the confuſion of languages, were more or leſs than ſeventy two, for they ſeem not to have gone according to families, but every one to have aſſociated himſelf to thoſe that underſtood his ſpeech; and the chief of the fathers, as Noah and his ſons, were not there, or were ſubject to Nimrod; each of which points doth deſtroy, even in the root, all pretence to paternal government. Beſides, it is evident in Scripture, that Noah lived three hundred and fifty years after the flood; Shem

five

five hundred; Abraham was born about two hundred and ninety years after the flood, and lived one hundred ſeventy five years: he was therefore born under the government of Noah, and died under that of Shem. So that in leaving his country, and ſetting up a family for himſelf that never acknowledged any ſuperior, and never pretending to reign over any other, he fully ſhewed he thought himſelf free, and that he owed ſubjection to none; and, being as far from arrogating to himſelf any power upon the title of paternity, as from acknowledging it in any other, left every one to the ſame liberty. SECT. 8

The punctual enumeration of the years, that the fathers of the holy ſeed lived, gives us ground of making a more than probable conjecture, that they of the collateral lines were, in number of days, not unequal to them; and if that be true, Ham and Cuſh were alive when Nimrod ſet himſelf up to be king. He muſt therefore have uſurped this power over his father, grandfather and great grandfather; or, which is more probable, he turned into violence and oppreſſion the power given to him by a multitude; which, like a flock without a ſhepherd, not knowing whom to obey, ſet him up to be their chief. I leave to our author the liberty of chooſing which of theſe two doth beſt ſuit with his paternal monarchy; but as far as I can underſtand, the firſt is directly againſt it, as well as againſt the laws of God and man; the other, being from the conſent of the multitude, cannot be extended farther than they would have it, nor turned to their prejudice, without the moſt abominable ingratitude and treachery, from whence no right can be derived, nor any juſtifiable example taken.

Nevertheleſs, if our author reſolve that Abraham was alſo a king, he muſt preſume that Shem did emancipate him, before he went to ſeek his fortune. This was not a kingly poſture: but I will not contradict him, if I may know over whom he reigned. Paternal monarchy is exerciſed by the father of the family over his deſcendents, or ſuch as had been under the dominion of him, whoſe heir he is. But Abraham had neither of theſe: thoſe of his neareſt kindred continued in Meſopotamia, as appears by what is ſaid of Bethuel and Laban. He had only Lot with him, over whom he pretended no right. He had no children till he was an hundred years old, that is to ſay, he was a king without a ſubject, and then he had but one. I have heard, that "ſovereigns do impatiently bear competitors*;" but now I find ſubjection alſo doth admit of none. Abraham's kingdom was too great when he had two children; and, to diſburden it, Iſhmael muſt be expelled ſoon after the birth of Iſaac. He obſerved the ſame method after the death of Sarah: he had children by Keturah; but he gave them gifts, and ſent them away, leaving Iſaac like a ſtoical king reigning in and over himſelf, without any other ſubject, till the birth of Jacob and Eſau. But his kingdom was not to be of a larger extent than that of his father; the two twins could not agree: Jacob

* —— Omniſque poteſtas
Impatiens conſortis erit.—— Luc. l. 1, v. 92

CHAP. I

was ſent away by his mother; he reigned over Eſau only; and it is not eaſy to determine who was the heir of his worldly kingdom: for though Jacob had the birthright, we do not find he had any other goods, than what he had gotten in Laban's ſervice. If our author ſay true, the right of primogeniture, with the dominion perpetually annexed by the laws of God and nature, muſt go to the eldeſt: Iſaac therefore, though he had not been deceived, could not have conferred it upon the younger; for man cannot overthrow what God and nature have inſtituted. Jacob, in the court language, had been a double rebel, in beguiling his father, and ſupplanting his brother; the bleſſing of being lord over his brethren could not have taken place; or, if Iſaac had power, and his act was good, the prerogative of the elder is not rooted in the law of God or nature, but is a matter of conveniency only, which may be changed at the will of the father, whether he know what he does or not. But if this paternal right to dominion were of any value, or dominion over men were a thing to be deſired, why did Abraham, Iſaac, and Jacob, content themſelves with ſuch a narrow territory, when, after the death of their anceſtors, they ought, according to that rule, to have been lords of the world? All authors conclude, that Shem was the eldeſt by birth, or preferred by the appointment of God, ſo as the right muſt have been in him, and from him tranſmitted to Abraham and Iſaac; but if they were ſo poſſeſſed with the contemplation of a heavenly kingdom, as not to care for the greateſt on earth, it is ſtrange, that Eſau, whoſe modeſty is not much commended, ſhould ſo far forget his intereſt, as neither to lay claim to the empire of the world, nor diſpute with his brother the poſſeſſion of the field and cave bought by Abraham, but rather to fight for a dwelling on mount Seir, that was neither poſſeſſed by, nor promiſed to his fathers. If he was fallen from his right, Jacob might have claimed it: but God was his inheritance; and, being aſſured of his bleſſing, he contented himſelf with what he could gain by his induſtry, in a way that was not at all ſuitable to the pomp and majeſty of a king. Which way ſoever therefore the buſineſs be turned, whether, according to Iſaac's bleſſing, Eſau ſhould ſerve Jacob, or our author's opinion, Jacob muſt ſerve Eſau, neither of the two was effected in their perſons: and the kingdom of two being divided into two, each of them remained lord of himſelf.

SECTION IX

THE POWER OF A FATHER BELONGS ONLY TO A FATHER.

This leads us to an eaſy determination of the queſtion, which our author thinks inſoluble: "If Adam was lord of his children, he does not ſee how "any can be free from ſubjection to his parents." For as no good man will

will ever desire to be free from the respect that is due to his father, who did beget and educate him, no wise man will ever think the like to be due to his brother or nephew, that did neither. If Esau and Jacob were equally free; if Noah, as our author affirms, divided Europe, Asia and Africa, amongst his three sons, though he cannot prove it; and if seventy two nations under so many heads or kings went from Babylon to people the earth, about a hundred and thirty years after the flood; I know not why, according to the same rule and proportion, it may not be safely concluded, that in four thousand years kings are so multiplied, as to be in number equal to the men that are in the world; that is to say, they are, according to the laws of God and nature, all free, and independent upon each other, as Shem, Ham, and Japhet were. And therefore, though Adam and Noah had reigned alone, when there were no men in the world, except such as issued from them, that is no reason why any other should reign over those that he has not begotten. As the right of Noah was divided among the children he left, and when he was dead, no one of them depended on the other, because no one of them was father of the other, and the right of a father can only belong to him that is so, the like must for ever attend every other father in the world. This paternal power must necessarily accrue to every father: he is a king by the same right as the sons of Noah; and how numerous soever families may be upon the increase of mankind, they are all free, till they agree to recede from their own right, and join together in or under one government, according to such laws as best please themselves. SECT. 10

SECTION X

SUCH AS ENTER INTO SOCIETY, MUST IN SOME DEGREE DIMINISH THEIR LIBERTY.

Reason leads them to this: no one man or family is able to provide that which is requisite for their convenience or security, whilst every one has an equal right to every thing, and none acknowledges a superior to determine the controversies, that upon such occasions must continually arise, and will probably be so many and great, that mankind cannot bear them. Therefore though I do not believe, that Bellarmine said, "a commonwealth "could not exercise its power;" for he could not be ignorant, that Rome and Athens did exercise theirs, and that all the regular kingdoms in the world are commonwealths; yet there is nothing of absurdity in saying, that man cannot continue in the perpetual and entire fruition of the liberty that God hath given him. The liberty of one is thwarted by that of another; and whilst they are all equal, none will yield to any, otherwise than by a general consent. This is the ground of all just governments; for violence or fraud can create no right; and the same consent gives the form to them all,

CHAP. I. how much ſoever they differ from each other. Some ſmall numbers of men, living within the precincts of one city, have, as it were, caſt into a common ſtock, the right which they had of governing themſelves and children, and by common conſent joining in one body, exerciſed ſuch power over every ſingle perſon as ſeemed beneficial to the whole; and this men call perfect "democracy." Others choſe rather to be governed by a ſelect number of ſuch as moſt excelled in wiſdom and virtue; and this, according to the ſignification of the word, was called "ariſtocracy." When one man excelled all others, the government was put into his hands under the name of "monarchy." But the wiſeſt, beſt, and by far the greateſt part of mankind, rejecting theſe ſimple ſpecies, did form governments mixed or compoſed of the three, as ſhall be proved hereafter, which commonly received their reſpective denomination from the part that prevailed, and did deſerve praiſe or blame, as they were well or ill proportioned.

It were a folly hereupon to ſay, that the liberty, for which we contend, is of no uſe to us, ſince we cannot endure the ſolitude, barbarity, weakneſs, want, miſery, and dangers, that accompany it whilſt we live alone, nor can enter into a ſociety without reſigning it; for the choice of that ſociety, and the liberty of framing it according to our own wills, for our own good, is all we ſeek. This remains to us, whilſt we form governments, that we ourſelves are judges how far it is good for us to recede from our natural liberty; which is of ſo great importance, that from thence only we can know whether we are freemen or ſlaves; and the difference between the beſt government and the worſt, doth wholly depend upon a right or wrong exerciſe of that power. If men are naturally free, ſuch as have wiſdom and underſtanding will always frame good governments: but if they are born under the neceſſity of a perpetual ſlavery, no wiſdom can be of uſe to them; but all muſt for ever depend on the will of their lords, how cruel, mad, proud, or wicked, ſoever they be.

SECTION XI

NO MAN COMES TO COMMAND MANY, UNLESS BY CONSENT OR BY FORCE.

But becauſe I cannot believe God hath created man in ſuch a ſtate of miſery and ſlavery as I juſt now mentioned; by diſcovering the vanity of our author's whimſical patriarchical kingdom, I am led to a certain concluſion, that every father of a family is free, and exempt from the domination of any other, as the ſeventy two that went from Babel were. It is hard to comprehend how one man can come to be maſter of many, equal to himſelf in right, unleſs it be by conſent, or by force. If by conſent, we are at an end of our controverſies: governments, and the magiſtrates that execute them, are created by man. They who give a being to them, cannot but have a right of regulating, limiting, and directing them as beſt pleaſeth them-

themſelves; and all our author's aſſertions concerning the abſolute power of one man, fall to the ground. If by force, we are to examine how it can be poſſible or juſtifiable. This ſubduing by force we call conqueſt; but as he that forceth muſt be ſtronger than thoſe that are forced, to talk of one man who in ſtrength exceeds many millions of men, is to go beyond the extravagance of fables and romances. This wound is not cured by ſaying, that he firſt conquers one, and then more, and with their help others; for as to matter of fact, the firſt news we hear of Nimrod is, that he reigned over a great multitude, and built vaſt cities; and we know of no kingdom in the world, that did not begin with a greater number than any one man could poſſibly ſubdue. If they who choſe one to be their head, did under his conduct ſubdue others, they were fellow-conquerors with him; and nothing can be more brutiſh, than to think, that by their virtue and valour they had purchaſed perpetual ſlavery to themſelves, and their poſterity. But if it were poſſible, it could not be juſtifiable: and whilſt our diſpute is concerning right, that which ought not to be is no more to be received, than if it could not be. No right can come by conqueſt, unleſs there were a right of making that conqueſt, which, by reaſon of the equality that our author confeſſes to have been amongſt the heads of families, and as I have proved goes on to infinity, can never be on the aggreſſor's ſide. No man can juſtly impoſe any thing upon thoſe who owe him nothing. Our author therefore, who aſcribes "the enlargement of Nimrod's kingdom to uſur-"pation and tyranny," might as well have acknowledged the ſame in the beginning, as he ſays all other authors have done. However, he ought not to have imputed to Sir Walter Raleigh an approbation of his right, as lord or king over his family; for he could never think him to be a lord by the right of a father, who by that rule muſt have lived and died a ſlave to his fathers that over-lived him. Whoever therefore like Nimrod grounds his pretenſions of right upon uſurpation and tyranny, declares himſelf to be, like Nimrod, an uſurper and a tyrant, that is, an enemy to God and man, and to have no right at all. That which was unjuſt in its beginning, can of itſelf never change its nature: "Tempus enim," ſaith Grotius, "ex "ſuapte natura vim nullam effectricem habet*." He that perſiſts in doing injuſtice, aggravates it, and takes upon himſelf all the guilt of his predeceſſors. But if there be a king in the world, that claims a right by conqueſt, and would juſtify it, he might do well to tell whom he conquered, when, with what aſſiſtance, and upon what reaſon he undertook the war; for he can ground no title upon the obſcurity of an unſearchable antiquity; and if he does it not, he ought to be looked upon as an uſurping Nimrod.

SECT. 11

* De Jure Belli, l. 2, c. 4, § 1. Duratio naturam rei non immutat, ib. l. 1, c. 3, § 11

SECTION XII

THE PRETENDED PATERNAL RIGHT IS DIVISIBLE OR INDIVISIBLE: IF DIVISIBLE, IT IS EXTINGUISHED; IF INDIVISIBLE, UNIVERSAL.

This paternal right to regality, if there be any thing in it, is diviſible or indiviſible; if indiviſible, as Adam has but one heir, ONE man is rightly lord of the whole world; and neither Nimrod, nor any of his ſucceſſors, could ever have been kings, nor the ſeventy two that went from Babylon: Noah ſurvived him near two hundred years: Shem continued one hundred and fifty years longer. The dominion muſt have been in him, and by him tranſmitted to his poſterity for ever. Thoſe, that call themſelves kings in all other nations, ſet themſelves up againſt the law of God and nature. This is the man we are to ſeek out, that we may yield obedience to him. I know not where to find him; but he muſt be of the race of Abraham. Shem was preferred before his brethren: the inheritance that could not be divided muſt come to him, and from him to Iſaac, who was the firſt of his deſcendents that outlived him. It is a pity that Jacob did not know this, and that the lord of all the earth, through ignorance of his title, ſhould be forced to keep one of his ſubjects ſheep for wages; and ſtrange, that he, who had wit enough to ſupplant his brother, did ſo little underſtand his own bargain, as not to know, that he had bought the perpetual empire of the world. If in conſcience he could not take ſuch a price for a diſh of pottage, it muſt remain in Eſau: however, our lord paramount muſt come from Iſaac. If the deed of ſale made by Eſau be good, we muſt ſeek him amongſt the Jews: if he could not eaſily diveſt himſelf of his right, it muſt remain amongſt his deſcendants, who are Turks. We need not ſcruple the reception of either, ſince the late Scots act tells us, "that kings "derive their royal power from God alone; and no difference of religion, "&c. can divert the right of ſucceſſion." But I know not what we ſhall do, if we cannot find this man; for "de non apparentibus, et non exiſtentibus eadem eſt ratio." The right muſt fall if there be none to inherit. If we do not know who he is that hath the right, we do not know who is near to him. All mankind muſt inherit the right, to which every one hath an equal title; and that which is dominion, if in one, when it is equally divided among all men, is that univerſal liberty which I aſſert. Wherefore I leave it to the choice of ſuch as have inherited our author's opinions, to produce this Jew or Turk that ought to be lord of the whole earth, or to prove a better title in ſome other perſon, and to perſuade all the princes and nations of the world to ſubmit. If this be not done, it muſt be confeſſed this paternal right is a mere whimſical fiction; and that no man by birth hath a right above another, or can have any, unleſs by the conceſſion of thoſe who are concerned.

If this right to an univerſal empire be diviſible, Noah did actually divide it among his three ſons: if ſeventy and two abſolute monarchs did at

once

once ariſe out of the multitude that had aſſembled at Babel; Noah, nor his ſons, nor any of the holy ſeed, nor probably any elder than Nimrod having been there, many other monarchs muſt neceſſarily have ariſen from them. Abraham, as our author ſays, was a king: Lot muſt have been ſo alſo, for they were equals. His ſons Ammon and Moab had no dependence upon the deſcendents of Abraham. Iſhmael and Eſau ſet up for themſelves, and great nations came of them. Abraham's ſons by Keturah did ſo alſo; that is to ſay, every one, as ſoon as he came to be of age to provide for himſelf, did ſo, without retaining any dependence upon the ſtock from whence he came: thoſe of that ſtock, or the head of it, pretended to no right over thoſe who went from them. Nay, nearneſs in blood was ſo little regarded, that though Lot was Abraham's brother's ſon, Eliezer his ſervant had been his heir, if he had died childleſs. The like continued amongſt Jacob's ſons; no juriſdiction was given to one above the reſt; an equal diviſion of land was made amongſt them; their judges and magiſtrates were of ſeveral tribes and families, without any other preference of one before another, than what did ariſe from the advantages God had given to any particular perſon. This I take to be a proof of the utmoſt extent and certainty, that the equality among mankind was then perfect: he therefore that will deny it to be ſo now, ought to prove, that neither the prophets, patriarchs, or any other men, did ever underſtand or regard the law delivered by God and nature to mankind; or, that having been common and free at the firſt, and ſo continued for many hundreds of years after the flood, it was afterwards aboliſhed, and a new one introduced. He that aſſerts this muſt prove it; but till it does appear to us, when, where, how, and by whom this was done, we may ſafely believe there is no ſuch thing; and that no man is, or can be a lord amongſt us, till we make him ſo; and that by nature we are all brethren. SECT. 12

Our author, by endeavouring farther to illuſtrate the patriarchal power, deſtroys it, and cannot deny to any man the right which he acknowledges to have been in Iſhmael and Eſau. But if every man has a right of ſetting up for himſelf with his family, or before he has any, he cannot but have a right of joining with others if he pleaſes. As his joining or not joining with others, and the choice of thoſe others, depends upon his own will, he cannot but have a right of judging upon what conditions it is good for him to enter into ſuch a ſociety, as muſt neceſſarily hinder him from exerciſing the right which he has originally in himſelf. But as it cannot be imagined, that men ſhould generally put ſuch fetters upon themſelves, unleſs it were in expectation of a greater good thereby to accrue to them, no more can be required to prove, that they do voluntarily enter into theſe ſocieties, inſtitute them for their own good, and preſcribe ſuch rules and forms to them as beſt pleaſe themſelves, without giving account to any. But if every man be free, till he enter into ſuch a ſociety as he chooſeth for his own good, and thoſe ſocieties may regulate themſelves as they think fit, no more can be required to prove the natural equality in which all men are born, and continue, till they reſign

CHAP. I. it as into a common ſtock, in ſuch meaſure as they think fit for the conſtituting of ſocieties for their own good, which I aſſert, and our author denies.

SECTION XIII

THERE WAS NO SHADOW OF A PATERNAL KINGDOM AMONGST THE HEBREWS, NOR PRECEPT FOR IT.

Our author is ſo modeſt as to confeſs, that Jacob's kingdom, conſiſting of ſeventy two perſons, was ſwallowed up by the power of the greater monarch Pharaoh. But if this was an act of tyranny, it is ſtrange, that the ſacred and eternal right, grounded upon the immutable laws of God and nature, ſhould not be reſtored to God's choſen people, when he delivered them from that tyranny. Why was not Jacob's monarchy conferred upon his right heir? how came the people to neglect a point of ſuch importance? or if they did forget it, why did not Moſes put them in mind of it? why did not Jacob declare to whom it did belong? or if he is underſtood to have declared it, in ſaying the ſceptre ſhould not depart from Judah, why was it not delivered into his hands, or unto his heirs? If he was hard to be found in a people of one kindred, but four degrees removed from Jacob their head, who were exact in obſerving genealogies, how can we hope to find him after ſo many thouſand years, when we do not ſo much as know from whom we are derived? or rather how comes that right, which is eternal and univerſal, to have been nipped in the bud, and ſo aboliſhed before it could take any effect in the world, as never to have been heard of amongſt the gentiles, nor the people of God, either before or after the captivity, from the death of Jacob to this day? This I aſſert, and I give up the cauſe, if I do not prove it. To this end I begin with Moſes and Aaron the firſt rulers of the people, who were neither of the eldeſt tribe according to birth, nor the diſpoſition of Jacob, if he did, or could give it to any; nor were they of the eldeſt line of their own tribe; and even between them the ſuperiority was given to Moſes, who was the younger, as it is ſaid, "I have made thee a God to Pharaoh, and Aaron thy brother ſhall be thy prophet." If Moſes was a king, as our author ſays, but I deny, and ſhall hereafter prove, the matter is worſe: he muſt have been an uſurper of a moſt unjuſt dominion over his brethren; and this patriarchal power, which by the law of God was to be perpetually fixed in his deſcendents, periſhed with him, and his ſons continued in an obſcure rank amongſt the Levites. Joſhua of the tribe of Ephraim ſucceeded him: Othniel was of Judah, Ehud of Benjamin, Barak of Naphtali, and Gideon of Manaſſeh. The other judges were of ſeveral tribes; and they being dead, their children lay hid amongſt the common people, and we hear no more of them. The firſt king was taken out of the leaſt family of the

leaſt

leaſt and youngeſt tribe. The ſecond, whilſt the children of the firſt king were yet alive, was the youngeſt of eight ſons of an obſcure man in the tribe of Judah. Solomon, one of his youngeſt ſons ſucceeded him. Ten tribes deſerted Rehoboam, and by the command of God ſet up Jeroboam to be their king. The kingdom of Iſrael by the deſtruction of one family paſſed into another: that of Judah by God's peculiar promiſe continued in David's race till the captivity; but we know not that the eldeſt ſon was ever preferred, and have no reaſon to preſume it. David their moſt reverenced king left no precept for it, and gave an example to the contrary: he did not ſet up the eldeſt, but the wiſeſt. After the captivity they who had moſt wiſdom or valour to defend the people, were thought moſt fit to command; and the kingdom at the laſt came to the Aſmonean race, whilſt the poſterity of David was buried in the maſs of the common people, and utterly deprived of all worldly rule or glory. If the judges had not a regal power, or the regal were only juſt as inſtituted by God, and eternally annexed to paternity, all that they did was evil; there could be nothing of juſtice in the powers exerciſed by Moſes, Joſhua, Gideon, Samuel, and the reſt of the judges. If the power was regal and juſt, it muſt have continued in the deſcendents of the firſt; Saul, David, and Solomon, could never have been kings; the right failing in them, their deſcendents could inherit none from them; and the others after the captivity were guilty of the like injuſtice. SECT. 13

Now as the rule is not general, to which there is any one juſt exception, there is not one of theſe examples that would not overthrow our author's doctrine: if one deviation from it were lawful, another might be, and ſo to infinity. But the utmoſt degree of impudent madneſs, to which perhaps any man in the world has ever arrived, is to aſſert that to be univerſal and perpetual, which cannot be verified by any one example to have been in any place of the world, nor juſtified by any precept.

If it be objected, that all theſe things were done by God's immediate diſpoſition, I anſwer, that it were an impious madneſs to believe, that God did perpetually ſend his prophets to overthrow what he had ordained from the beginning, and, as it were in ſpite, to bring the minds of men into inextricable confuſion and darkneſs, and by particular commands to overthrow his univerſal and eternal law. But to render this point more clear, I deſire it may be conſidered, that we have but three ways of diſtinguiſhing between good and evil.

1. When God by his word reveals it to us.

2. When by his deeds he declares it; becauſe that which he does is good, as that which he ſays is true.

3. By the light of reaſon; which is good, inaſmuch as it is from God.

And firſt: It cannot be ſaid we have an explicit word for that continuance of the power in the eldeſt; for it appears not: and having none, we might conclude it to be left to our liberty. For it agrees not with the goodneſs of God to leave us in a perpetual ignorance of his will in a matter

CHAP. I of ſo great importance; nor to have ſuffered his own people, or any other, to perſiſt, without the leaſt reproof or admonition, in a perpetual oppoſition to it, if it had diſpleaſed him.

Secondly, The diſpenſations of his providence, which are the emanations of his will, have gone contrary to this pretended law. There can therefore be no ſuch thing; for God is conſtant to himſelf; his works do not contradict his word; and both of them do equally declare to us that which is good.

Thirdly, If there be any precept, that by the light of nature we can in matters of this kind look upon as certain, it is, that the government of a people ſhould be given to him that can beſt perform the duties of it. No man has it for himſelf, or from himſelf; but for and from thoſe, who, before he had it, were his equals, that he may do good to them. If there were a man, who in wiſdom, valour, juſtice, and purity, ſurpaſſed all others, he might be called a king by nature; becauſe he is beſt able to bear the weight of ſo great a charge; and, like a good ſhepherd, to lead the people to good. "Detur digniori" is the voice of reaſon; and, that we may be ſure "detur ſeniori" is not ſo, Solomon tells us, "that a wiſe child is better "than an old and fooliſh king." But if this pretended right do not belong to him that is truly the eldeſt, nothing can be more abſurd than a fantaſtical pretence to a right deduced from him that is not ſo. Now leſt I ſhould be thought to follow my own inventions, and call them reaſon, or the light of God in us, I deſire it may be obſerved, that God himſelf has ever taken this method. When he raiſed up Moſes to be the leader of his people, he endowed him with the moſt admirable gifts of his Spirit that ever he beſtowed upon a man. When he choſe ſeventy men to aſſiſt him, he endowed them with the ſame Spirit. Joſhua had no other title to ſucceed him than the like evidence of God's preſence with him. When the people through ſin fell into miſery, he did not ſeek out their deſcendents, nor ſuch as boaſted in a prerogative of birth; but ſhewed whom he deſigned for their deliverer, by beſtowing ſuch gifts upon him as were required for the performance of his work; and never failed of doing this, till that miſerable, ſinful people, rejecting God, and his government, deſired that which was in uſe among their accurſed neighbours, that they might be as like to them in the moſt ſhameful ſlavery to man, as in the worſhip of idols ſet up againſt God.

But if this pretended right be grounded upon no word or work of God, nor the reaſon of man, it is to be accounted a mere figment, that has nothing of truth in it.

SECTION XIV

IF THE PATERNAL RIGHT HAD INCLUDED DOMINION, AND WAS TO BE TRANSFERRED TO A SINGLE HEIR, IT MUST PERISH IF HE WERE NOT KNOWN; AND COULD BE APPLIED TO NO OTHER PERSON.

Having ſhewn, that the firſt kings were not fathers, nor the firſt fathers kings; that all the kings of the Jews and gentiles mentioned in Scripture came in upon titles different from, and inconſiſtent with, that of paternity; and that we are not led by the word, nor the works of God, nor the reaſon of man, or light of nature, to believe there is any ſuch thing, we may ſafely conclude there never was any ſuch thing, or that it never had any effect; which to us is the ſame. It is as ridiculous to think of retrieving that which from the beginning of the world was loſt, as to create that which never was. But I may go farther, and affirm, that though there had been ſuch a right in the firſt fathers of mankind exerciſed by them, and for ſome ages individually tranſmitted to their eldeſt ſons, it muſt neceſſarily periſh, ſince the generations of men are ſo confuſed, that no man knows his own original; and conſequently this heir is no where to be found: for it is a folly for a man to pretend to an inheritance, who cannot prove himſelf to be the right heir. If this be not true, I deſire to know from which of Noah's ſons the kings of England, France, or Spain, do deduce their original; or what reaſon they can give, why the title to dominion, which is fancied to be in Noah, did rather belong to the firſt of their reſpective races, that attained to the crowns they now enjoy, than to the meaneſt peaſant of their kingdoms; or how that can be tranſmitted to them, which was not in the firſt. We know, that no man can give what he has not; that if there be no giver, there is no gift; if there be no root, there can be no branch; and that the firſt point failing, all that ſhould be derived from it muſt neceſſarily fail.

Our author, who is good at reſolving difficulties, ſhews us an eaſy way out of this ſtrait. "It is true," ſays he, "all kings are not natural parents "of their ſubjects; yet they either are, or are to be reputed, the next "heirs to thoſe firſt progenitors, who were at firſt the natural parents of "the whole people, and in their right ſucceed to the exerciſe of the ſu- "preme juriſdiction; and ſuch heirs are not only lords of their own "children, but alſo of their brethren, and all thoſe that were ſubject to "their fathers, &c. By this means it comes to paſs, that many a child "ſucceeding a king hath the right of a father over many a grey-headed "multitude, and hath the title of pater patriae."

An aſſertion comprehending ſo many points, upon which the moſt important rights of all mankind do depend, might deſerve ſome proof; but he, being of opinion we ought to take it upon his credit, does not vouchſafe to give us ſo much as the ſhadow of any. Nevertheleſs, being unwilling

CHAP. I willing either crudely to receive, or raſhly to reject it, I ſhall take the liberty of examining the propoſition, and hope I may be pardoned, if I dwell a little more than ordinarily upon that which is the foundation of his work.

We are beholden to him for confeſſing modeſtly, that all kings are not the natural fathers of their people, and ſparing us the pains of proving, that the kings of Perſia, who reigned from the Indies to the Helleſpont, did not beget all the men that lived in thoſe countries; or that the kings of France and Spain, who began to reign before they were five years old, were not the natural fathers of the nations under them. But if all kings are not fathers, none are, as they are kings: if any one is, or ever was, the rights of paternity belong to him, and to no other who is not ſo alſo. This muſt be made evident; for matters of ſuch importance require proof, and ought not to be taken upon ſuppoſition. If Filmer therefore will pretend, that the right of father belongs to any one king, he muſt prove, that he is the father of his people; for otherwiſe it does not appertain to him; he is not the man we ſeek.

It is no leſs abſurd to ſay, he is to be reputed heir to the firſt progenitor: for it muſt be firſt proved, that the nation did deſcend from one ſingle progenitor without mixture of other races; that this progenitor was the man, to whom Noah (according to Filmer's whimſical diviſion of Aſia, Europe, and Africa, among his ſons) did give the land now inhabited by that people; that this diviſion ſo made was not capable of ſubdiviſions; and that this man is by a true and uninterrupted ſucceſſion deſcended from the firſt and eldeſt line of that progenitor; and all fails, if every one of theſe points be not made good. If there never was any ſuch man who had that right, it cannot be inherited from him. If by the ſame rule that a parcel of the world was allotted to him, that parcel might be ſubdivided amongſt his children as they increaſed, the ſubdiviſions may be infinite, and the right of dominion thereby deſtroyed. If ſeveral nations inhabit the ſame land, they owe obedience to ſeveral fathers: that which is due to their true father, cannot be rendered to him that is not ſo; for he would by that means be deprived of the right which is inſeparably annexed to his perſon: and laſtly, whatever the right of an heir may be, it can belong only to him that is heir.

Leſt any ſhould be ſeduced from theſe plain truths by frivolous ſuggeſtions, it is good to conſider, that the title of "pater patriae," with which our author would cheat us, has no relation to the matters of right, upon which we diſpute. It is a figurative ſpeech, that may have been rightly enough applied to ſome excellent princes, on account of their care and love to their people, reſembling that of a father to his children; and can relate to none but thoſe who had it. No man that had common ſenſe, or valued truth, did ever call Phalaris, Dionyſius, Nabis, Nero, or Caligula, fathers of their countries; but monſters, that to the utmoſt of their power endeavoured their deſtruction. Which is enough to prove that ſacred name cannot be given to all, and in conſequence to none but ſuch, as by their virtue, piety, and good government, do deſerve it.

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SECT. 14

Theſe matters will yet appear more evident, if it be conſidered, that though Noah had reigned as a king, that Zoroaſter, as ſome ſuppoſe, was Ham, who reigned over his children, and that thereby ſome right might perhaps be derived to ſuch as ſucceeded them, yet this can have no influence upon ſuch as have not the like original; and no man is to be preſumed to have it, till it be proved, ſince we have proved that many had it not. If Nimrod ſet himſelf up againſt his grandfather, and if Ninus, who was deſcended from him in the fifth generation, ſlew him, they ill deſerved the name and rights of fathers; and none, but thoſe who have renounced all humanity, virtue, and common ſenſe, can give it to them, or their ſucceſſors. If therefore Noah and Shem had not ſo much as the ſhadow of regal power, and the actions of Nimrod, Ninus, and others, who were kings in their times, ſhew they did not reign in the right of fathers, but were ſet up in a direct oppoſition to it, the titles of the firſt kings were not from paternity, nor conſiſtent with it.

Our author therefore, who ſhould have proved every point, does neither prove any one, nor aſſert that which is agreeable to divine or human ſtory as to matter of fact, or indeed conformable to common ſenſe. It does not only appear contrary to his general propoſition, that all governments have not begun with the paternal power; but we do not find, that any ever did. They who, according to his rules, ſhould have been lords of the whole earth, lived and died private men, whilſt the moſt wicked and boiſterous of their children commanded the greateſt part of the then inhabited world, not excepting even thoſe countries where they ſpent and ended their days; and inſtead of entering upon the government by the right of fathers, or managing it as fathers, they did by the moſt outrageous injuſtice uſurp a violent domination over their brethren and fathers.

It may eaſily be imagined what the right is, that could be thus acquired, and tranſmitted to their ſucceſſors. Nevertheleſs our author ſays, "all "kings either are, or ought to be reputed next heirs, &c." But why reputed, if they are not? How could any of the accurſed race of Ham be reputed father of Noah or Shem, to whom he was to be a ſervant? How could Nimrod and Ninus be reputed fathers of Ham, and of thoſe whom they ought to have obeyed? Can reaſon oblige me to believe that which I know to be falſe? Can a lie, that is hateful to God and good men, not only be excuſed, but injoined, when (as he will perhaps ſay) it is for the king's ſervice? Can I ſerve two maſters, or, without the moſt unpardonable injuſtice, repute him to be my father, who is not my father; and pay the obedience due to him who did beget and educate me, to one from whom I never received any good? If this be ſo abſurd, that no man dares affirm it in the perſon of any, it is as prepoſterous in relation to his heirs: for Nimrod the firſt king could be heir to no man as king, and could tranſmit to no man a right which he had not. If it was ridiculous and abominable to ſay, that he was father of Cuſh, Ham, Shem, and Noah, it is as ridiculous to ſay, he had the right of father, if he was not their father; or that his ſucceſſors inherited it from him, if he never had

CHAP. I had it. If there be any way through this, it muſt have accrued to him by the extirpation of all his elders, and their races; ſo that he, who will aſſert this pretended right to have been in the Babylonian kings, muſt aſſert, that Noah, Shem, Japhet, Ham, Cuſh, and all Nimrod's elder brothers, with all their deſcendents, were utterly extirpated before he began to reign; and that all mankind were deſcended from him.

This muſt be, if Nimrod, as the Scripture ſays, was the firſt that became mighty in the earth; unleſs men might be kings, without having more power than others for Cuſh, Ham, and Noah, were his elders and progenitors in the direct line; and all the ſons of Shem and Japhet, and their deſcendents in the collaterals, were to be preferred before him; and he could have no right at all, that was not directly contrary to thoſe principles, which, our author ſays, are grounded upon the eternal and indiſpenſable laws of God and nature. The like may be ſaid of the ſeventy two heads of colonies, which (following, as I ſuppoſe, Sir Walter Raleigh) he ſays, went out to people the earth, and whom he calls kings: for, according to the ſame rule, Noah, Shem, and Japhet, with their deſcendents, could not be of the number; ſo that neither Nimrod, nor the others that eſtabliſhed the kingdoms of the world, and from whence he thinks all the reſt to be derived, could have any thing of juſtice in them, unleſs it were from a root altogether inconſiſtent with his principles. They are therefore falſe, or the eſtabliſhments before-mentioned could have no right. If they had none, they cannot be reputed to have any; for no man can think that to be true, which he knows to be falſe: having none, they could tranſmit none to their heirs and ſucceſſors. And if we are to believe, that all the kingdoms of the earth are eſtabliſhed upon this paternal right, it muſt be proved, that all thoſe, who in birth ought to have been preferred before Nimrod, and the ſeventy two, were extirpated; or that the firſt and true heir of Noah did afterwards aboliſh all theſe unjuſt uſurpations; and, making himſelf maſter of the whole, left it to his heirs, in whom it continues to this day. When this is done, I will acknowledge the foundation to be well laid, and admit of all that can be rightly built upon it; but if this fails, all fails: the poiſon of the root continues in the branches. If the right heir be not in poſſeſſion, he is not the right who is in poſſeſſion: if the true heir be known, he ought to be reſtored to his right: if he be not known, the right muſt periſh: for nothing can be ſaid to belong to any man, if no man knows to whom it belongs, and can have no more effect than if it were not. This concluſion will continue unmoveable, though the diviſion into ſeventy two kingdoms were allowed; which cannot be without deſtroying the paternal power, or ſubjecting it to be ſubdivided into as many parcels as there are men, which deſtroys regality; for the ſame thing may be required in every one of the diſtinct kingdoms, and others derived from them. We muſt know who was that true heir of Noah, that recovered all; how, when, and to whom he gave the ſeveral portions; and that every one of them do continue in the poſſeſſion of thoſe, who by this prerogative of birth are raiſed above the reſt of mankind; and if they are not,

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it is an impious folly to repute them ſo, to the prejudice of thoſe that are; SECT. 15
and if they do not appear, to the prejudice of all mankind; who, being equal, are thereby made ſubject to them. For as truth is the rule of juſtice, there can be none, when he is reputed ſuperior to all who is certainly inferior to ———

[In this place two pages are wanting in the original manuſcript.]

—degenerated from that reaſon which diſtinguiſhes men from beaſts. Though it may be fit to uſe ſome ceremonies, before a man be admitted to practiſe phyſic, or ſet up a trade, it is his own ſkill that makes him a doctor, or an artificer; and others do but declare it. An aſs will not leave his ſtupidity, though he be covered with ſcarlet; and he, that is by nature a ſlave, will be ſo ſtill, though a crown be put upon his head. And it is hard to imagine a more violent inverſion of the laws of God and nature, than to raiſe him to the throne, whom nature intended for the chain; or to make them ſlaves to ſlaves, whom God hath endowed with the virtues required in kings. Nothing can be more prepoſterous, than to impute to God the frantic domination, which is often exerciſed by wicked, fooliſh, and vile perſons, over the wiſe, valiant, juſt, and good; or to ſubject the beſt to the rage of the worſt. If there be any family therefore in the world, which can by the law of God and nature, diſtinct from the ordinance of man, pretend to an hereditary right of dominion over any people, it muſt be one that never did, and never can produce any perſon, who is not free from all the infirmities and vices, which render him unable to exerciſe the ſovereign power; and is endowed with all the virtues required to that end; or at leaſt a promiſe from God, verified by experience, that the next in blood ſhall ever be able and fit for that work. But ſince we do not know, that any ſuch has yet appeared in the world, we have no reaſon to believe, that there is, or ever was any ſuch; and conſequently none, upon whom God has conferred the rights that cannot be exerciſed without them.

If there was no ſhadow of a paternal right in the inſtitution of the kingdoms of Saul and David, there could be none in thoſe that ſucceeded. Rehoboam could have no other than from Solomon. When he reigned over two tribes, and Jeroboam over ten, it is not poſſible, that both of them could be the next heir of their laſt common father Jacob; and it is abſurd to ſay, that ought to be reputed, which is impoſſible: for our thoughts are ever to be guided by truth, or ſuch an appearance of it, as does perſuade or convince us.

The ſame title of father is yet more ridiculouſly or odiouſly applied to the ſucceeding kings. Baaſha had no other title to the crown, than by killing Nadab the ſon of Jeroboam, and deſtroying his family. Zimri purchaſed the ſame honour by the ſlaughter of Elah when he was drunk; and dealing with the houſe of Baaſha, as he had done with that of Jeroboam. Zimri, burning himſelf, transferred the ſame to Omri, as a reward for bringing him to that extremity. As Jehu was more fierce than theſe, he ſeems to

CHAP. I. have gained a more excellent recompence than any ſince Jeroboam, even a conditional promiſe of a perpetual kingdom; but falling from theſe glorious privileges, purchaſed by his zeal in killing two wicked kings, and above one hundred of their brethren, Shallum muſt have inherited them, by deſtroying Zechariah and all that remained of his race. This in plain Engliſh is no leſs than to ſay, that whoever kills a king, and invades a crown, though the act and means of accompliſhing it be ever ſo deteſtable, does thereby become father of his country, and heir of all the divine privileges annexed to that glorious inheritance. And though I cannot tell whether ſuch a doctrine be more ſottiſh, monſtrous, or impious, I dare affirm, that if it were received, no king in the world could think himſelf ſafe in his throne for one day. They are already encompaſſed with many dangers; but leſt pride, avarice, ambition, luſt, rage, and all the vices that uſually reign in the hearts of worldly men, ſhould not be ſufficient to invite them perpetually to diſturb mankind, through the deſire of gaining the power, riches, and ſplendor, that accompany a crown, our author propoſes to them the moſt ſacred privileges, as a reward of the moſt execrable crimes. He that was ſtirred up only by the violence of his own nature, thought that a kingdom could never be bought at too dear a rate:

——— "Pro regno velim
"Patriam, penates, conjugem flammis dare:
"Imperia pretio quolibet conſtant bene*."

But if the ſacred character of God's anointed or vicegerent, and father of a country, were added to the other advantages that follow the higheſt fortunes, the moſt modeſt and juſt men would be filled with fury, that they might attain to them. Nay, it may be, even the beſt would be the moſt forward in conſpiring againſt ſuch as reign. They, who could not be tempted with external pleaſures, would be moſt in love with divine privileges; and ſince they ſhould become the ſacred miniſters of God, if they ſucceeded, and traitors or rogues only if they miſcarried, their only care would be ſo to lay their deſigns, that they might be ſurely executed. This is a doctrine worthy of Filmer's invention, and Heylin's approbation; which, being well weighed, will ſhew to all good and juſt kings, how far they are obliged to thoſe, who, under pretence of advancing their authority, fill the minds of men with ſuch notions as are ſo deſperately pernicious to them.

* The words of Polynices. Senec. Theb. verſ. ult.

SECTION XVI

THE ANTIENTS CHOSE THOSE TO BE KINGS, WHO EXCELLED IN THE VIRTUES THAT ARE MOST BENEFICIAL TO CIVIL SOCIETIES.

If the Iſraelites, whoſe lawgiver was God, had no king in the firſt inſtitution of their government, it is no wonder that other nations ſhould not think themſelves obliged to ſet up any. If they who came all of one ſtock, and knew their genealogies, when they did inſtitute kings, had no regard to our author's chimerical right of inheritance, nor were taught by God or his prophets to have any, it is not ſtrange, that nations, who did not know their own original, and who probably, if not certainly, came of ſeveral ſtocks, never put themſelves to the trouble of ſeeking one, who by his birth deſerved to be preferred before others. And various changes happening in all kingdoms, (whereby in proceſs of time the crowns were tranſported into divers families, to which the right of inheritance could not without the utmoſt impiety and madneſs be imputed) ſuch a fancy certainly could only enter into the heads of fools; and we know of none ſo fooliſh as to have harboured it.

The Grecians, among others who followed the light of reaſon, knew no other original title to the government of a nation than that wiſdom, valour, and juſtice, which was beneficial to the people. Theſe qualities gave beginning to thoſe governments, which we call "heroum regna;" and the veneration paid to ſuch as enjoyed them, proceeded from a grateful ſenſe of the good received from them. They were thought to be deſcended from the gods, who in virtue and beneficence ſurpaſſed other men. The ſame attended their deſcendents, till they came to abuſe their power, and by their vices ſhewed themſelves like to, or worſe than others. Thoſe nations did not ſeek the moſt antient, but the moſt worthy; and thought ſuch only worthy to be preferred before others, who could beſt perform their duty. The Spartans knew, that Hercules and Achilles were not their fathers; for they were a nation before either of them were born; but thinking their children might be like to them in valour, they brought them from Thebes and Epirus to be their kings. If our author is of another opinion, I deſire to know, whether the Heraclidae, or the Aeacidae were, or ought to be, reputed fathers of the Lacedemonians; for if the one were, the other were not.

The ſame method was followed in Italy; and they, who eſteemed themſelves Aborigines *, could not ſet up one to govern them under the title of parent. They could pay no veneration to any man under the name of a common father, who thought they had none; and they who eſteemed themſelves equal, could have no reaſon to prefer any one, unleſs he were

* ——— Qui rupto robore nati,
Compoſitive luto, nullos habuere parentes. Juv. Sat. 6, l. 13

CHAP. I

diſtinguiſhed from others by the virtues that were beneficial to all. This may be illuſtrated by matters of fact. Romulus and Remus, the ſons of a Nun, conſtuprated, as is probable, by a luſty ſoldier, who was ſaid to be Mars, for their vigour and valour were made heads of a gathered people. We know not that ever they had any children; but we are ſure they could not be fathers of the people that flocked to them from ſeveral places, nor in any manner be reputed heirs of him or them that were ſo; for they never knew who was their own father; and when their mother came to be diſcovered, they ought to have been ſubjects to Amulius, or, when they had killed him, to Numitor. They could not be his heirs whilſt he lived, and were not when he died. The government of the Latins continued at Alba, and Romulus reigned over thoſe who joined with him in building Rome. The power, not coming to him by inheritance, muſt have been gained by force, or conferred upon him by conſent. It could not be acquired by force; for one man could not force a multitude of fierce and valiant men, as they appear to have been. It muſt therefore have been by conſent: and when he aimed at more authority than they were willing to allow, they ſlew him. He being dead, they fetched Numa from among the Sabines. He was not their father, nor heir to their father, but a ſtranger; not a conqueror, but an unarmed philoſopher. Tullus Hoſtilius had no other title. Ancus Martius was no way related to ſuch as had reigned. The firſt Tarquin was the ſon of a baniſhed Corinthian. Servius Tullius came to Rome in the belly of his captive mother, and could inherit nothing but chains from his vanquiſhed father. Tarquin the Proud murthered him, and firſt took upon himſelf the title of king, "ſine juſſu populi *." If this murder and uſurpation be called a conqueſt, and thought to create a right, the effect will be but ſmall: the conqueror was ſoon conquered, baniſhed, and his ſons ſlain, after which we hear no more of him, or his deſcendents. Whatever he gained from Servius, or the people, was ſoon loſt, and did accrue to thoſe that conquered and ejected him; and they might retain what was their own, or confer it upon one or more, in ſuch manner and meaſure as beſt pleaſed themſelves. If the regal power, which our author ſays was in the conſuls, could be divided into two parts, limited to a year, and ſuffer ſuch reſtrictions as the people pleaſed to lay upon it, they might have divided it into as many parcels, and put it into ſuch form, as beſt ſuited with their inclinations; and the ſeveral magiſtracies which they did create for the exerciſe of the kingly, and all other powers, ſhews they were to give account to none but themſelves.

The Iſraelites, Spartans, Romans, and others, who thus framed their governments according to their own will, did it not by any peculiar privilege, but by a univerſal right conferred upon them by God and nature. They were made of no better clay than others; they had no right, that does not as well belong to other nations: that is to ſay, the conſtitution of every government is referred to thoſe who are concerned in it, and no other has any thing to do with it.

* Liv. l. i, c. 49

Yet

Yet if it be aſſerted, that the government of Rome was paternal, or they had none at all, I deſire to know, how they came to have ſix fathers of ſeveral families, whilſt they lived under kings; and two or more new ones every year afterwards; or how they came to be ſo excellent in virtue and fortune, as to conquer the beſt part of the world, if they had no government. Hobbes indeed doth ſcurrilouſly deride Cicero, Plato and Ariſtotle, "caeteroſque Romanae & Graecae anarchiae fautores." But it is ſtrange, that this anarchy, which he reſembles to a chaos, full of darkneſs and confuſion, that can have no ſtrength or regular action, ſhould overthrow all the monarchies that came within its reach, "if (as our author "ſays) the beſt order, greateſt ſtrength, and moſt ſtability, be in them." It muſt therefore be confeſſed, that theſe governments are, in their various forms, rightly inſtituted by ſeveral nations, without any regard to inheritance; or that theſe nations have had no governments, and were more ſtrong, virtuous, and happy, without government, than under it; which is moſt abſurd. SECT. 16

But if governments ariſe from the conſent of men, and are inſtituted by men according to their own inclinations, they do therein ſeek their own good; for the will is ever drawn by ſome real good, or the appearance of it. This is that which man ſeeks by all the regular or irregular motions of his mind. Reaſon and paſſion, virtue and vice, do herein concur, though they differ vaſtly in the objects, in which each of them thinks this good to conſiſt. A people therefore that ſets up kings, dictators, conſuls, pretors, or emperors, does it not, that they may be great, glorious, rich, or happy, but that it may be well with themſelves, and their poſterity. This is not accompliſhed ſimply by ſetting one, a few, or more men in the adminiſtration of powers, but by placing the authority in thoſe who may rightly perform their office. This is not every man's work: valour, integrity, wiſdom, induſtry, experience, and ſkill, are required for the management of thoſe military and civil affairs that neceſſarily fall under the care of the chief magiſtrates. He or they therefore may reaſonably be advanced above their equals, who are moſt fit to perform the duties belonging to their ſtations, in order to the public good, for which they were inſtituted.

Marius, Sylla, Catiline, Julius or Octavius Caeſar, and all thoſe who by force or fraud uſurped a dominion over their brethren, could have no title to this right; much leſs could they become fathers of the people, by uſing all the moſt wicked means that could well be imagined to deſtroy them; and not being regularly choſen for their virtues, or the opinion of them, nor preferred on account of any prerogative that had been from the beginning annexed to their families, they could have no other right than occupation could confer upon them. If this can confer a right, there is an end of all diſputes concerning the laws of God or man. If Julius and Octavius Caeſar did ſucceſſively become lords and fathers of their country, by ſlaughtering almoſt all the ſenate, and ſuch perſons as were eminent for nobility or virtue, together with the greater part of the people, it

CHAP. I. cannot be denied, that a thief, who breaks into his neighbour's houſe, and kills him, is juſtly maſter of his eſtate; and may exact the ſame obedience from his children, that they render to their father. If this right could be transferred to Tiberius, either through the malice of Octavius, or the fraud of his wife; a wet blanket laid over his face, and a few corrupted ſoldiers, could inveſt Caligula with the ſame. A vile raſcal, pulling Claudius out by the heels from behind the hangings, where he had hid himſelf, could give it to him. A diſh of muſhrooms well ſeaſoned by the infamous ſtrumpet his wife, and a potion prepared for Britannicus by Locuſta, could transfer it to her ſon, who was a ſtranger to his blood. Galba became heir to it, by driving Nero to deſpair and death. Two common ſoldiers, by exciting his guards to kill him, could give a juſt title to the empire of the world to Otho, who was thought to be the worſt man in it. If a company of villains in the German army, thinking it as fit for them as others, to create a father of mankind, could confer the dignity upon Vitellius; and if Veſpaſian, cauſing him to be killed, and thrown into a jakes leſs impure than his life, did inherit all the glorious and ſacred privileges belonging to that title, it is in vain to inquire after any man's right to any thing.

But if there be ſuch a thing as right or wrong to be examined by men, and any rules ſet, whereby the one may be diſtinguiſhed from the other, theſe extravagancies can have no effect of right. Such as commit them are not to be looked upon as fathers, but as the moſt mortal enemies of their reſpective countries. No right is to be acknowledged in any, but ſuch as is conferred upon them by thoſe who have the right of conferring, and are concerned in the exerciſe of the power, upon ſuch conditions as beſt pleaſe themſelves. No obedience can be due to him or them, who have not a right of commanding, which cannot reaſonably be conferred upon any, that are not eſteemed willing and able rightly to execute it. This ability to perform the higheſt work that comes within the reach of men, and integrity of will not to be diverted from it by any temptation, or conſideration of private advantages, comprehending all that is moſt commendable in man, we may eaſily ſee, that whenever men act according to the law of their own nature, which is reaſon, they can have no other rule to direct them in advancing one above another, than the opinion of a man's virtue and ability, beſt to perform the duty incumbent upon him; that is, by all means to procure the good of the people committed to his charge. He is only fit to conduct a ſhip, who underſtands the art of a pilot. When we are ſick, we ſeek the aſſiſtance of ſuch as are beſt ſkilled in phyſic. The command of an army is prudently conferred upon him that has moſt induſtry, ſkill, experience, and valour. In like manner, he only can, according to the rules of nature, be advanced to the dignities of the world, who excels in the virtues required for the performance of the duties annexed to them; for he only can anſwer the end of his inſtitution. The law of every inſtituted power is to accompliſh the end of its inſtitution, as creatures are to do the will of their creator, and,

in deflecting from it, overthrow their own being. Magiſtrates are diſtinguiſhed from other men, by the power with which the law inveſts them for the public good: he that cannot or will not procure that good, deſtroys his own being, and becomes like to other men. In matters of the greateſt importance, "detur digniori" is the voice of nature. All her moſt ſacred laws are perverted, if this be not obſerved in the diſpoſition of governments; and all are neglected and violated, if they are not put into the hands of ſuch as excel in all manner of virtues; for they only are worthy of them, and they only can have a right who are worthy; becauſe they only can perform the end for which they are inſtituted. This may ſeem ſtrange to thoſe, who have their heads infected with Filmer's whimſies; but to others, ſo certainly grounded upon truth, that Bartolomeo de las Caſas Biſhop of Chiapa, in a treatiſe written by him, and dedicated to the emperor Charles the Vth, concerning the Indies, makes it the foundation of all his diſcourſe, that notwithſtanding his grant of all thoſe countries from the Pope, and his pretenſions to conqueſt, he could have no right over any of thoſe nations, unleſs he did in the firſt place, as the principal end, regard their good. "The reaſon," ſays he, "is, that re- SECT. 16
"gard is to be had to the principal end and cauſe, for which a ſupreme "or univerſal lord is ſet over them, which is their good and profit, and "not that it ſhould turn to their deſtruction and ruin; for if that ſhould "be, there is no doubt but from thenceforward, that power would be "tyrannical and unjuſt, as tending more to the intereſt and profit of that "lord, than to the public good and profit of the ſubjects; which, accord- "ing to natural reaſon, and the laws of God and man, is abhorred, and "deſerves to be abhorred *." And in another place, ſpeaking of the governors, who, abuſing their power, brought many troubles and vexations upon the Indians, he ſays, "they had rendered his majeſty's govern- "ment intolerable, and his yoke inſupportable, tyrannical, and moſt "juſtly abhorred †." I do not allege this through an opinion, that a Spaniſh biſhop is of more authority than another man; but to ſhew, that theſe are common notions in which all mankind are agreed; and that the greateſt monarchs do neither refuſe to hear them, or to regulate themſelves according to them, till they renounce common ſenſe, and degenerate into beaſts.

But if that government be unreaſonable, and abhorred by the laws of God and man, which is not inſtituted for the good of thoſe that live under it; and an empire, grounded upon the donation of the Pope, which

* La razon es porque ſiempre ſe ha de tener reſpeto al fin y cauſa final, por el qual, el tal ſupremo y univerſal ſennor ſe les pone, que es ſu bien y utilitad; y a que no ſe le convierte el tal ſupremo ſennorio in danno, pernicie y deſtruycion. Porque ſi aſſi fueſſe, no ay que dudar, que non deſde entonees incluſivamente ſeria injuſto, tyrannico y iniquo tal ſenorio, come mas ſe enderezaſſe al proprio intereſſe y provecho del ſennor, que al bien y utilitad comun de los ſubditos; lo qual de la razon natural y de todas las leyes humanas y divinas es abhorrecido y abhorreſcible. Bart. de las Caſas, deſtr. de las Indias, pag. 111.

† El yugo y governacion de vueſtra mageſtad importable, tyrannico y degno de todo abhorrecimento. Pag. 167.

amongſt

CHAP. I. amongſt thoſe of the Roman religion is of great importance, and an entire conqueſt of the people, with whom there had been no former compact, do degenerate into a moſt unjuſt and deteſtable tyranny, ſo ſoon as the ſupreme lord begins to prefer his own intereſt or profit before the good of his ſubjects; what ſhall we ſay of thoſe who pretend to a right of dominion over free nations, as inſeparably united to their perſons, without diſtinction of age or ſex, or the leaſt conſideration of their infirmities and vices; as if they were not placed in the throne for the good of their people, but to enjoy the honours and pleaſures that attend the higheſt fortune? What name can be fit for thoſe, who have no other title to the places they poſſeſs, than the moſt unjuſt and violent uſurpation, or being deſcended from thoſe, who for their virtues were, by the people's conſent, duly advanced to the exerciſe of a legitimate power; and having ſworn to adminiſter it, according to the conditions upon which it was given, for the good of thoſe who gave it, turn all to their own pleaſure and profit, without any care of the public? Theſe may be liable to hard cenſures; but thoſe, who uſe them moſt gently, muſt confeſs, that ſuch an extreme deviation from the end of their inſtitution, annuls it; and the wound thereby given to the natural and original rights of thoſe nations cannot be cured, unleſs they reſume the liberties, of which they have been deprived, and return to the antient cuſtom of chooſing thoſe to be magiſtrates, who for their virtues beſt deſerve to be preferred before their brethren, and are endowed with thoſe qualities that beſt enable men to perform the great end of providing for the public ſafety.

SECTION XVII

GOD, HAVING GIVEN THE GOVERNMENT OF THE WORLD TO NO ONE MAN, NOR DECLARED HOW IT SHOULD BE DIVIDED, LEFT IT TO THE WILL OF MAN.

Our author's next inquiry is, "What becomes of the right of fatherhood, "in caſe the crown ſhould eſcheat for want of an heir? whether it doth "not then devolve to the people?" His anſwer is, "it is but the negli- "gence or ignorance of the people, to loſe the knowledge of the true "heir, &c." And a little below, "the power is not devolved to the "multitude: no, the kingly power eſcheats to independent heads of "families. All ſuch prime heads have power to conſent in uniting, or "conferring their fatherly right of ſovereign authority on whom they "pleaſe; and he that is ſo elected, claims not his power as a donative "from the people, but as being ſubſtituted by God, from whom he re- "ceives his royal charter of univerſal father," &c.

In my opinion, before he had aſked, what ſhould be done "in caſe the "crown ſhould eſcheat for want of an heir?" he ought to have proved, that

that there had been a man in the world, who had the right in himſelf, SECT. 17
and, telling who he was, have ſhewed how it had been tranſmitted for ſome generations, that we might know where to ſeek his heir. And before he accuſed the multitude of ignorance or negligence, in not knowing this heir, he ought to have informed us, how it may be poſſible to know him, or what it would avail us if we did know him; for it is in vain to know to whom a right belongs, that never was, and never can be executed. But we may go farther, and affirm, that as the univerſal right muſt have been in Noah and Shem, if in any, who never exerciſed it, we have reaſon to believe there never was any ſuch thing. And, having proved from Scripture and human hiſtory, that the firſt kingdoms were ſet up in a direct oppoſition to this right, by Nimrod and others, he that ſhould ſeek and find their heirs, would only find thoſe, who, by a moſt accurſed wickedneſs, had uſurped and continued a dominion over their fathers, contrary to the laws of God and nature. And we ſhould neither be more wiſe, nor more happy, than we are, though our author ſhould furniſh us with certain and authentic genealogies, by which we might know the true heirs of Nimrod, and the ſeventy two kings that went from Babylon, who, as he ſuppoſes, gave beginning to all the kingdoms of the earth.

Moreover, if the right be univerſal, it muſt be in one; for the world being but one, the whole right of commanding it cannot at the ſame time be in many, and proceed from the ordinance of God, or of man. It cannot proceed from the ordinance of God; for he does nothing in vain. He never gave a right that could not be executed. No man can govern that which he does not ſo much as know. No man did ever know all the world: no man therefore did or could govern it; and none could be appointed by God to do that which is abſolutely impoſſible to be done; for it could not conſiſt with his wiſdom. We find this in ourſelves. It were a ſhame for one of us poor, weak, ſhort-ſighted creatures, in the diſpoſal of our affairs, to appoint ſuch a method, as were utterly ineffectual for the preſervation of our families, or deſtructive to them; and the blaſphemy of imputing to God ſuch an ordinance, as would be a reproach to one of us, can ſuit only with the wicked and impudent fury of ſuch as our author, who delights in monſters. This alſo ſhews us, that it cannot be from men: one, or a few, may commit follies; but mankind does not univerſally commit, and perpetually perſiſt in any: they cannot therefore, by a general and permanent authority, enact that which is utterly abſurd and impoſſible; or if they do, they deſtroy their own nature, and can no longer deſerve the name of reaſonable creatures. There can be therefore no ſuch man, and the folly of ſeeking him, or his heir that never was, may be left to the diſciples of Filmer.

The difficulties are as great, if it be ſaid, the world might be divided into parcels, and we are to ſeek the heirs of the firſt poſſeſſors. For beſides that no man can be obliged to ſeek that which cannot be found, all men knowing, that "caliginoſâ nocte haec premit Deus *," and that the

* Hor. l. 3, Od. 29

CHAP. I genealogies of mankind are ſo confuſed, that, unleſs poſſibly among the Jews, we have reaſon to believe there is not a man in the world who knows his own original, it could be of no advantage to us, though we knew that of every one; for the diviſion would be of no value, unleſs it were at the firſt rightly made by him who had all the authority in himſelf, which does no where appear, and rightly deduced to him, who, according to that diviſion, claims a right to the parcel he enjoys. And I fear our author would terribly ſhake the crowns, in which the nations of Europe are concerned, if they ſhould be perſuaded to ſearch into the genealogies of their princes, and to judge of their rights according to the proofs they ſhould give of titles rightly deduced by ſucceſſion of blood from the ſeventy two firſt kings, from whom our author fancies all the kingdoms of the world to be derived.

Beſides, though this were done, it would be to no purpoſe; for the ſeventy two were not ſent out by Noah; nor was he, or his ſons, of that number; but they went, or were ſent from Babylon, where Nimrod reigned, who, as has been already proved, neither had nor could have any right at all; but was a mighty hunter, even a proud and cruel tyrant, uſurping a power to which he had no right, and which was perpetually exerciſed by him and his ſucceſſors againſt God and his people. From whence, I may ſafely conclude, no right can ever be derived. And this concluſion, I may juſtly preſume, will be denied by none who are of better morals, and of more ſound principles, in matters of law and religion, than Filmer and Heylin; ſince it is no leſs abſurd to deduce a right from him that had none, than to expect pure and wholeſome waters from a filthy, polluted, and poiſonous fountain.

If it be pretended, that ſome other man ſince Noah had this univerſal right, it muſt either remain in one ſingle perſon, as his right heir, or be divided. If in one, I deſire to know who he is, and where we may find him, that the empire of the world may be delivered to him. But if he cannot be found, the buſineſs is at an end; for every man in the world may pretend himſelf to be the perſon; and the infinite controverſies ariſing thereupon can never be decided, unleſs either the genealogies of every one from Noah were extant and proved, or we had a word from heaven, with a ſufficient teſtimony of his miſſion who announces it. When this is done, it will be time to conſider what kind of obedience is due to this wonderfully happy and glorious perſon. But while the firſt appears to be abſolutely impoſſible, and we have no promiſe or reaſon to expect the other, the propoſition is to be eſteemed one of our author's empty whimſies, which cannot be received by mankind, unleſs they come all to be poſſeſſed with an epidemical madneſs, which would caſt them into that which Hobbes calls "bellum omnium contra omnes;" when every man's ſword would be drawn againſt every man, if God ſhould ſo abandon the world to ſuffer them to fall into ſuch miſery.

If this pretended right be divided, it concerns us to know by whom, when, how, or to whom, for the diviſion cannot be of any value, unleſs

the right was originally in one; that he did exerciſe this right in making the diviſion; that the parcels into which the world is divided are according to the allotment that was made; and that the perſons claiming them by virtue of it are the true heirs of thoſe to whom they were firſt granted. Many other difficulties may be alleged no leſs inextricable than theſe; but this ſeeming ſufficient for the preſent, I ſhall not trouble myſelf with more, promiſing that, when they ſhall be removed, I will propoſe others, or, confeſſing my errors, yield up the cauſe. SECT. 17

But if the dominion of the whole world cannot belong to any one man, and every one has an equal title to that which ſhould give it; or if it did belong to one, none did ever exerciſe it in governing the whole, or dividing it; or if he did divide it, no man knows how, when, and to whom; ſo that they, who lay claim to any parcels, can give no teſtimony of that diviſion, nor ſhew any better title than other men derived from his firſt progenitor, to whom it is ſaid to have been granted; and that we have neither a word, nor the promiſe of a word, from God to decide the controverſies ariſing thereupon, nor any prophet giving teſtimony of his miſſion that takes upon him to do it, the whole fabric of our author's patriarchal dominion falls to the ground. And they who propoſe theſe doctrines, which, if they were received, would be a root of perpetual and irreconcilable hatred in every man againſt every man, can be accounted no leſs than miniſters of the devil, though they want the abilities he has ſometimes infuſed into thoſe who have been employed on the like occaſions. And we may juſtly conclude, that, God having never given the whole world to be governed by one man, nor preſcribed any rule for the diviſion of it, nor declared where the right of dividing or ſubdividing that which every man has ſhould terminate, the whole is for ever left to the will and diſcretion of man. We may enter into, form, and continue in, greater or leſs ſocieties, as beſt pleaſes ourſelves. The right of paternity as to dominion is at an end; and no more remains, but the love, veneration, and obedience, which, proceeding from a due ſenſe of the benefits of birth and education, have their root in gratitude, and are eſteemed ſacred and inviolable by all that are ſober and virtuous. And as it is impoſſible to transfer theſe benefits by inheritance, ſo it is impoſſible to transfer the rights ariſing from them. No man can be my father, but he that did beget me; and it is as abſurd to ſay I owe that duty to one who is not my father, which I owe to my father, as to ſay, he did beget me, who did not beget me: for the obligation that ariſes from benefits can only be to him that conferred them. It is in vain to ſay the ſame is due to his heir; for that can take place only when he has but one, which in this caſe ſignifies nothing. For if I, being the only ſon of my father, inherit his right, and have the ſame power over my children as he had over me, if I had one hundred brothers, they muſt all inherit the ſame; and the law of England, which acknowledges one only heir, is not general, but municipal; and is ſo far from being general, as the precept of God and nature, that I doubt whether it was

CHAP. I ever known or uſed in any nation of the world beyond our iſland. The words of the apoſtle, "if we are children, we are therefore heirs and "co-heirs with Chriſt," are the voice of God and nature; and as the univerſal law of God and nature is always the ſame, every one of us who have children have the ſame right over them, as Abraham, Iſaac, and Jacob, had over theirs; and that right which was not devolved to any one of them, but inherited by them all (I mean the right of father as father, not the peculiar promiſes, which were not according to the law of nature, but the election of grace) is alſo inherited by every one of us, and ours, that is, by all mankind. But if that which could be inherited was inherited by all, and it be impoſſible that a right of dominion over all can be due to every one, then all that is or can be inherited by every one is that exemption from the dominion of another, which we call liberty; and is the gift of God and nature.

SECTION XVIII

IF A RIGHT OF DOMINION WERE ESTEEMED HEREDITARY ACCORDING TO THE LAW OF NATURE, A MULTITUDE OF DESTRUCTIVE AND INEXTRICABLE CONTROVERSIES WOULD THEREUPON ARISE.

There being no ſuch thing therefore, according to the law of nature, as an hereditary right to the dominion of the world, or any part of it, nor any one man that can derive to himſelf a title from the firſt fathers of mankind, by which he can rightly pretend to be preferred before others to that command, or a part of it, and none can be derived from Nimrod, or other uſurpers, who had none in themſelves, we may juſtly ſpare our pains of ſeeking farther into that matter. But as things of the higheſt importance can never be too fully explained, it may not be amiſs to obſerve, that if mankind could be brought to believe, that ſuch a right of dominion were by the law of God and nature hereditary, a great number of the moſt deſtructive and inextricable controverſies muſt thereupon ariſe, which the wiſdom and goodneſs of God can never injoin, and nature, which is reaſon, can never intend. At preſent I ſhall only mention two, from whence others muſt perpetually ſpring. Firſt, if there be ſuch a law, no human conſtitution can alter it; no length of time can be a defence againſt it; all governments that are not conformable to it are vicious and void, even in their root, and muſt be ſo for ever: that which is originally unjuſt may be juſtly overthrown. We do not know of any, at leaſt in that part of the world in which we are moſt concerned, that is eſtabliſhed, or exerciſed with ſuch an abſolute power, as by the authors of thoſe opinions is eſteemed inſeparable from it: many, as the empire, and other ſtates, are directly contrary; and on that account can have no juſtice in them. It being cer-

tain therefore, that he or they, who exerciſe thoſe governments, have no, SECT. 18
right; that there is a man to whom it does belong, and no man knowing who he is, there is no one man who has not as good a title to it as any other: there is not therefore one who has not a right, as well as any, to overthrow that which has none at all. He that has no part in the government may deſtroy it, as well as he that has the greateſt; for he neither has that which God ordained he ſhould have, nor can ſhew a title to that which he enjoys, from that original prerogative of birth, from whence it can only be derived.

If it be ſaid, that ſome governments are arbitrary, as they ought to be, and France, Turky, and the like be alleged as inſtances, the matter is not mended: for we do not only know when thoſe, who deſerve to be regarded by us, were not abſolute, and how they came to be ſo; but alſo, that thoſe very families which are now in poſſeſſion, are not of a very long continuance, had no more title to the original right we ſpeak of than any other men, and conſequently can have none to this day. And though we cannot perhaps ſay, that the governments of the barbarous eaſtern nations were ever other than they are, yet the known original of them deprives them of all pretence to the patriarchal inheritance, and they may be as juſtly as any other deprived of the power to which they have no title.

In the ſecond place, though all mens genealogies were extant, and fully verified, and it were allowed, that the dominion of the world, or every part of it, did belong to the right heir of the firſt progenitor, or any other to whom the firſt did rightly aſſign the parcel, which is under queſtion, yet it were impoſſible for us to know who ſhould be eſteemed the true heir, or according to what rule he ſhould be judged ſo to be: for God hath not by a preciſe word determined it, and men cannot agree about it, as appears by the various laws and cuſtoms of ſeveral nations, diſpoſing ſeverally of hereditary dominions.

It is a folly to ſay, they ought to go to the next in blood; for it is not known who is that next. Some give the preference to him, who among many competitors is the feweſt degrees removed from their common progenitor who firſt obtained the crown. Others look only upon the laſt that poſſeſſed it. Some admit of repreſentation, by which means the grandchild of a king by his eldeſt ſon is preferred before his ſecond ſon, he being ſaid to repreſent his dead father, who was the eldeſt. Others exclude theſe, and advance the younger ſon, who is nearer by one degree to the common progenitor that laſt enjoyed the crown, than the grandchild. According to the firſt rule, Richard the ſecond was advanced to the crown of England, as ſon of the eldeſt ſon of Edward the third, before his uncles, who by one degree were nearer to the laſt poſſeſſor. And in purſuance of the ſecond, Sancho ſurnamed the Brave, ſecond ſon of Alphonſo the Wiſe, king of Caſtile, was preferred before Alphonſo ſon of Ferdinand his elder brother, according to the law of thaneſtry, which was in force in Spain, ever ſince we have had any knowledge of that country, as appears by the conteſt between Corbis and Orſua, decided by combat before Scipio Africanus,

CHAP. I. canus *, continued in full force as long as the kingdom of the Goths laſted, and was ever highly valued, till the houſe of Auſtria got poſſeſſion of that country, and introduced laws and cuſtoms formerly unknown to the inhabitants.

The hiſtories of all nations furniſh us with innumerable examples of both ſorts. And whoever takes upon him to determine which ſide is in the right, ought to ſhew by what authority he undertakes to be the judge of mankind, and how the infinite breaches thereby made upon the rights of the governing families ſhall be cured, without the overthrow of thoſe that he ſhall condemn, and of the nations where ſuch laws have been in force as he diſlikes: and till that be done, in my opinion, no place will afford a better lodging for him, that ſhall impudently aſſume ſuch a power, than the new buildings in Moor-fields.

It is no leſs hard to decide, whether this next heir is to be ſought in the male line only, or whether females alſo may be admitted. If we follow the firſt as the law of God and nature, the title of our Engliſh kings is wholly aboliſhed; for not one of them, ſince Henry the firſt, has had the leaſt pretence to an inheritance by the maſculine line; and if it were neceſſary, we have enough to ſay of thoſe that were before him.

If it be ſaid, that the ſame right belongs to females, it ought to be proved, that women are as fit as men to perform the office of a king, that is, as the Iſraelites ſaid to Samuel, to go in and out before us, to judge us, and to fight our battles; for it were an impious folly to ſay, that God had ordained thoſe for the offices on which the good of mankind ſo much depends, who by nature are unable to perform the duties of them. If, on the other ſide, the ſweetneſs, gentleneſs, delicacy, and tenderneſs of the ſex, render them ſo unfit for manly exerciſes, that they are accounted utterly repugnant to, and inconſiſtent with that modeſty, which does ſo eminently ſhine in all thoſe that are good among them, that law of nature which ſhould advance them to the government of men, would overthrow its own work, and make thoſe to be the heads of nations, which cannot be the heads of private families: for, as the apoſtle ſays, "the woman "is not the head of the man, but the man is the head of the woman." This were no leſs than to oblige mankind to lay aſide the name of reaſonable creatures: for if reaſon be his nature, it cannot injoin that which is contrary to itſelf; if it be not, the definition "homo eſt animal rationale," is falſe, and ought no longer to be aſſumed.

If any man think theſe arguments to be miſtaken or miſapplied, I deſire him to inquire of the French nation, on what account they have always excluded females, and ſuch as deſcended from them. How comes the houſe of Bourbon to be advanced to the throne before a great number of families that come from the daughters of the houſe of Valois? Or what

* Corbis et Orſua, patrueles fratres, de principatu civitatis, quam Ibem vocabant, ambigentes, ferro ſe certaturos profeſſi ſunt. Corbis, qui major erat aetate, uſu armorum et aſtu facilè ſtolidas vires minoris ſuperavit. Liv. l. 28, c. 21. Val. Max. l. 9, c. 11. Sil. Ital. l. 16, v. 533

title

title could thoſe have before the daughters of the other lines, deſcended from Hugh Capet, Pepin, Meroveus, or Pharamond? I know not how ſuch queſtions would be received; but I am inclined to think, that the wickedneſs and folly of thoſe, who ſhould thereby endeavour to overthrow the moſt ancient and moſt venerated conſtitutions of the greateſt nations, and by that means to involve them in the moſt inextricable difficulties, would be requited only with ſtones. SECT. 18

It cannot be denied, that the moſt valiant, wiſe, learned, and beſt poliſhed nations, have always followed the ſame rule, though the weak and barbarous acted otherwiſe *; and no man ever heard of a queen, or a man deriving his title from a female among the antient civilized nations. But if this be not enough, the law of God, that wholly omits females, is ſufficient to ſhew, that nature, which is his handmaid, cannot advance them. When God deſcribes who ſhould be the king of his people, if they would have one, and how he ſhould govern, no mention is made of daughters †. The Iſraelites offered the kingdom to Gideon, and to his ſons. God promiſed, and gave it to Saul, David, Jeroboam, Jehu, and their ſons. When all of them, ſave David, by their crimes fell from the kingdom, the males only were extirpated, and the females, who had no part in the promiſes, did not fall under the penalties, or the vengeance that was executed upon thoſe families. And we do not, in the word of God, or in the hiſtory of the Jews, hear of any feminine reign, except that which was uſurped by Athaliah; nor that any conſideration was had of their deſcendants in relation to the kingdom: which is enough to ſhew, that it is not according to the law of God, nor to the law of nature, which cannot differ from it. So that females, or ſuch as derive their right by inheritance from females, muſt have it from ſome other law, or they can have none at all.

But though this queſtion were authentically decided, and concluded, that females might or might not ſucceed, we ſhould not be at the end of our conteſts. For if they were excluded, it would not from thence follow, as in France, that their deſcendants ſhould be ſo alſo; for the privilege which is denied to them, becauſe they cannot, without receding from the modeſty and gentleneſs of the ſex, take upon them to execute all the duties required, may be transferred to their children, as Henry the ſecond, and Henry the ſeventh, were admitted, though their mothers were rejected.

If it be ſaid, that every nation ought in this to follow their own conſtitutions, we are at an end of our controverſies; for they ought not to be followed, unleſs they are rightly made: they cannot be rightly made, if they are contrary to the univerſal law of God and nature. If there be a general rule, it is impoſſible but ſome of them, being directly contrary to each other, muſt be contrary to it. If therefore all of them are to be followed, there can be no general law given to all; but every people is by God and nature left to the liberty of regulating theſe matters relating to

* ——Reginarumque ſub armis
Barbariae pars magna jacet. —— Claud. in Eutrop. l. 1, v. 322

† Deut. ch. 17

themſelves

CHAP. I themſelves according to their own prudence or convenience: and this ſeems to be ſo certainly true, that whoever does, as our author, propoſe doctrines to the contrary, muſt either be thought raſhly to utter that which he does not underſtand, or maliciouſly to caſt balls of diviſion among all nations, whereby every man's ſword would be drawn againſt every man, to the total ſubverſion of all order and government.

SECTION XIX

KINGS CANNOT CONFER THE RIGHT OF FATHER UPON PRINCES, NOR PRINCES UPON KINGS.

Leſt what has been ſaid before by our author ſhould not be ſufficient to accompliſh his deſign of bringing confuſion upon mankind, and ſome may yet lie ſtill for want of knowing at whoſe command he ſhould cut his brother's throat, if he has not power or courage to ſet up a title for himſelf, he has a new project that would certainly do his work, if it were received. Not content with the abſurdities and untruths already uttered in giving the incommunicable right of fathers, not only to thoſe, who, as is manifeſtly teſtified by ſacred and profane hiſtories, did uſurp a power over their fathers, or ſuch as owed no manner of obedience to them; and juſtifying thoſe uſurpations, which are moſt odious to God, and all good men, he now fancies a kingdom ſo gotten may eſcheat for want of an heir; whereas there is no need of ſeeking any, if uſurpation can confer a right; and that he who gets the power into his hands ought to be reputed the right heir of the firſt progenitor; for ſuch a one will ſeldom be wanting, if violence and fraud be juſtified by the command of God, and nations ſtand obliged to render obedience, till a ſtronger or more ſucceſsful villain throws him from the throne he had invaded. But if it ſhould come to paſs that no man would ſtep into the vacant place, he has a new way of depriving the people of their right to provide for the government of themſelves. "Be-
"cauſe," ſays he, "the dependency of antient families is oft obſcure or
"worn out of knowledge; therefore the wiſdom of all or moſt princes
"has thought fit many times to adopt thoſe for heads of families, and
"princes of provinces, whoſe merits, abilities, or fortunes, have enno-
"bled them, and made them fit and capable of ſuch regal favours: all
"ſuch prime heads and fathers have power to conſent in the uniting or
"conferring of their fatherly right of ſovereign authority on whom they
"pleaſe, &c."

I may juſtly aſk how any one or more families come to be eſteemed more ancient than others, if all are deſcended from one common father, as the Scriptures teſtify; or to what purpoſe it were to inquire what families were the moſt ancient, if there were any ſuch, when the youngeſt and meaneſt by uſurpation gets an abſolute right of dominion over the eldeſt, though

though his own progenitors, as Nimrod did: but I may certainly conclude, SECT. 19
that whatever the right be, that belongs to those ancient families, it is inherent in them, and cannot be conferred on any other by any human power; for it proceeds from nature only. The duty I owe to my father does not arise from an usurped or delegated power, but from my birth derived from him; and it is as impossible for any man to usurp, or receive, by the grant of another, the right of a father over me, as for him to become, or pretend to be made my father by another who did not beget me. But if he say true, this right of father does not arise from nature; nor the obedience that I owe to him that begot me, from the benefits which I have received, but is merely an artificial thing, depending upon the will of another: and that we may be sure there can be no error in this, our author attributes it to the wisdom of princes. But before this comes to be authentic, we must at the least be sure that all princes have this great and profound wisdom, which our author acknowledges to be in them, and which is certainly necessary for the doing of such great things, if they were referred to them. They seem to us to be born like other men, and to be generally no wiser than other men. We are not obliged to believe that Nebuchadnezzar was wise, *till God had given him the heart of a man*; or that his grandson *Belshazzar*, who being laid in the balance was found too light, had any such profound wisdom. Ahasuerus shewed it not in appointing all the people of God to be slain, upon a lye told to him by a rascal; and the matter was not very much mended, when, being informed of the truth, he gave them leave to kill as many of their enemies as they pleased. The hardness of *Pharoah's* heart, and the overthrow thereby brought upon himself and people, does not argue so profound a judgment as our author presumes every prince must have. And it is not probable, that Samuel would have told Saul, "he had done foolishly," if kings had always been so exceeding wise. Nay, if wisdom had been annexed to the character, Solomon might have spared the pains of asking it from God, and Rehoboam must have had it. Not to multiply examples out of Scripture, it is believed, that Xerxes had not inflicted stripes upon the sea for breaking his navy in pieces, if he had been so very wise *. Caligula, for the same reason, might have saved the labour of making love to the moon †, or have chosen a fitter subject to advance to the consulate than his horse Incitatus ‡: Nero had not endeavoured to make a woman of a man, nor married a man as a woman §. Many other examples might be alleged to shew, that kings are not always

* Ὡς ἐπυθετο Ξέρξης, δεινα ποιευμενος, τον Ἑλλησποντον ἐκελευσε τριηκοσιας ἐπικεσθαι μαστιγι πληγας, και κατειναι ες το πελαγος πεδεων ζευγος. Herod. l. 7, § 35

† Noctibus quidem plenam fulgentemque lunam invitabat assiduè in amplexus atque concubitum. Suet. in vitâ Calig. §. 22

‡ Incitato equo, cujus causâ pridie Circenses, ne inquietaretur, viciniae silentium per milites indicere solebat, praeter equile marmoreum, et praesepe eburneum, praeterque purpurea tegumenta, ac monilia è gemmis, domum etiam, et familiam, et supellectilem dedit, quo lautiùs nomine ejus invitati acciperentur: consulatum quoque traditur destinasse. Ibid. §. 55

§ Puerum Sporum, exsectis testibus, etiam in muliebrem naturam transfigurare conatus est: cum dote et flammeo perfolenni nuptiarum celeberrimo officio, deductum ad se pro uxore habuit. Id. in vitâ Neronis, §. 28

CHAP. I wiſe: and not only the Roman ſatiriſt, who ſays, "quicquid delirant reges, "&c *." ſhews that he did not believe them to be generally wiſer than other men; but Solomon himſelf judges them to be as liable to infirmities, when he prefers a wiſe child before an old and fooliſh king. If therefore the ſtrength of our author's argument lies in the certainty of the wiſdom of kings, it can be of no value, till he proves it to be more univerſal in them than hiſtory or experience will permit us to believe. Nay, if there be truth or wiſdom in the Scripture, which frequently repreſents the wicked man as a fool, we cannot think, that all kings are wiſe, unleſs it be proved, that none of them have been wicked; and when this is performed by Filmer's diſciples, I ſhall confeſs my error.

Men give teſtimony of their wiſdom, when they undertake that which they ought to do, and rightly perform that which they undertake; both which points do utterly fail in the ſubject of our diſcourſe. We have often heard of ſuch as have adopted thoſe to be their ſons who were not ſo, and ſome civil laws approve it. This ſignifies no more, than that ſuch a man, either through affection to one who is not his ſon, or to his parents, or for ſome other reaſon, takes him into his family, and ſhews kindneſs to him, as to his ſon; but the adoption of fathers is a whimſical piece of nonſenſe. If this be capable of an aggravation, I think none can be greater, than not to leave it to my own diſcretion, who, having no father, may reſolve to pay the duty I owed to my father to one who may have ſhewed kindneſs to me; but for another to impoſe a father upon a man, or a people compoſed of fathers, or ſuch as have fathers, whereby they ſhould be deprived of that natural honour and right, which he makes the foundation of his diſcourſe, is the utmoſt of all abſurdities. If any prince therefore have ever undertaken to appoint fathers of his people, he cannot be accounted a man of profound wiſdom, but a fool, or a madman; and his acts can be of no value. But if the thing were conſonant to nature, and referred to the will of princes (which I abſolutely deny) the frequent extravagancies committed by them in the elevation of their favourites ſhew, that they intend not to make them fathers of the people, or know not what they do when they do it.

To chooſe or inſtitute a father is nonſenſe in the very term; but if any were to be choſen to perform the office of fathers to ſuch as have none, and are not of age to provide for themſelves (as men do tutors or guardians for orphans) none could be capable of being elected, but ſuch as, in kindneſs to the perſon they were to take under their care, did moſt reſemble his true father, and had the virtues and abilities required rightly to provide for his good. If this fails, all right ceaſes; and ſuch a corruption is introduced as we ſaw in our court of wards, which the nation could not bear, when the inſtitution was perverted, and the king, who ought to have taken a tender care of the wards and their eſtates, delivered them as a prey to thoſe whom he favoured.

* Hor. l. 1, Epiſt. 2

Our

Our author ridiculouſly attributes the title and authority of father to the word prince, for it hath none in it, and ſignifies no more than a man who in ſome kind is more eminent than the vulgar. In this ſenſe Mutius Scaevola told Porſenna, that "three hundred princes of the Roman youth had conſpired againſt him *." By which he could not mean, that three hundred fathers of the Roman youth, but three hundred Roman young men had conſpired: and they could not be fathers of the city, unleſs they had been fathers of their own fathers. "Princeps ſenatûs" was underſtood in the ſame ſenſe; and P. Sempronius the cenſor, chooſing Q. Fabius Maximus to that honour, gave for a reaſon, "ſe lecturum Q. Fa-" bium Maximum, quem tum principem Romanae civitatis eſſe, vel An-" nibale judice, dicturus eſſet †;" which could not be underſtood that Hannibal thought him to be the father or lord of the city, for he knew he was not; but the man, who for wiſdom and valour was the moſt eminent in it. SECT. 19

The like are, and ought to be, the princes of every nation; and though ſomething of honour may juſtly be attributed to the deſcendents of ſuch as have done great ſervices to their country, yet they who degenerate from them cannot be eſteemed princes; much leſs can ſuch honours or rights be conferred upon court-creatures or favourites. Tiberius, Caligula, Claudius, Nero, Galba, and others, could advance Macro, Pallas, Narciſſus, Tigellinus, Vinius, Laco, and the like, to the higheſt degrees of riches and power; but they ſtill continued to be villains, and ſo they died.

No wiſe or good man ever thought otherwiſe of thoſe, who, through the folly of princes, have been advanced to the higheſt places in ſeveral countries. The madneſs of attributing to them a paternal power ſeems to have been peculiarly reſerved to complete the infamy of our author; for he only could acknowledge a cooptitious father, or give to another man the power of chooſing him. I confeſs, that a man in his infancy may have been expoſed, like Moſes, Cyrus, Oedipus, Romulus. He may have been taken in war; or by the charity of ſome good perſon ſaved from the teeth of wild beaſts, or from the ſword by which his parents fell, and may have been educated with that care which fathers uſually have of their children: it is reaſonable, that ſuch a one in the whole courſe of his life ſhould pay that veneration and obedience to him, who gave him as it were a ſecond birth, which was due to his natural father; and this, though improperly, may be called an adoption. But to think that any man can aſſume it to himſelf, or confer it upon another, and thereby arrogate to himſelf the ſervice and obedience, which, by the moſt tender and ſacred laws of nature, we owe to thoſe from whom we receive birth and education, is the moſt prepoſterous folly that hitherto has ever entered into the heart of man.

Our author nevertheleſs is not aſhamed of it, and gives reaſons no way unſuitable to the propoſition. "Men are, ſays he, adopted fathers of

* Trecenti principes juventutis Romanae. Liv. l. 2, c. 12

† Liv. l. 27, c. 13

CHAP. I

" provinces for their abilities, merits, or fortunes." But theſe abilities can ſimply deſerve nothing; for if they are ill employed, they are the worſt of vices, and the moſt powerful inſtruments of miſchief. Merits, in regard of another, are nothing, unleſs they be to him. He alone can merit from me the reſpect due to a father, who has conferred benefits upon me, in ſome meaſure proportionable to thoſe, which we uſually receive from our fathers: and the world may judge, whether all the court-miniſters and favourites that we have known, do, upon this account, deſerve to be eſteemed fathers of nations. But to allow this on account of their fortunes, is, if poſſible, more extravagant than any thing that has been yet uttered. By this account Mazarine muſt have been father of the French nation. The ſame right was inherited by his chaſte niece, and remained in her, till ſhe and her ſilly huſband diſſipated the treaſures which her uncle had torn from the bowels of that people. The partiſans may generally claim the ſame right over the provinces they have pillaged: old Audley, Dog Smith, Biſhop Duppa, Brownloe, Child, Daſhwood, Fox, &c. are to be eſteemed fathers of the people of England. This doctrine is perfectly canonical, if Filmer and Heylin were good divines: and legal, if they judged more rightly touching matters of law. But if it be abſurd and deteſtable, they are to be reputed men, who, by attributing the higheſt honours to the vileſt wretches of the world, for what they had gained by the moſt abominable means, endeavour to increaſe thoſe vices, which are already come to ſuch a height, that they can by no other way be brought to a greater. Daily experience too plainly ſhews, with what rage avarice uſually fills the hearts of men. There are not many deſtructive villainies committed in the world, that do not proceed from it. In this reſpect it is called " idolatry," and " the root of all evil." Solomon warns us to beware of ſuch as make haſte to grow rich, and ſays, they ſhall not be innocent. But it is no matter what the prophets, the apoſtles, or the wiſeſt men, ſay of riches, and the ways of gaining them; for our author tells us, that men of the greateſt fortunes, without examining how they came to them, or what uſe they make of them, deſerve to be made fathers of provinces.

But this is not his only quarrel with all that is juſt and good: his whole book goes directly againſt the letter and ſpirit of the Scripture. The work of all thoſe, whom God in ſeveral ages has raiſed up to announce his word, was to abate the luſts and paſſions that ariſe in the hearts of men; to ſhew the vanity of worldly enjoyments, with the dangers that accompany riches and honour, and to raiſe our hearts to the love of thoſe treaſures that periſh not. Honeſt and wiſe men, following the light of nature, have in ſome meaſure imitated this. Such as lived private lives, as Plato, Socrates, Epictetus, and others, made it their buſineſs to abate mens luſts, by ſhewing the folly of ſeeking vain honours, uſeleſs riches, or unſatisfying pleaſures; and thoſe who were like to them, if they were raiſed to ſupreme magiſtracies, have endeavoured by the ſevereſt puniſhments to reſtrain men from committing the crimes by which riches are moſt

moſt commonly gained: but Filmer and Heylin lead us into a new way. SECT. 19
If they deſerve credit, whoever would become ſupreme lord and father of his country, abſolute, ſacred, and inviolable, is only to kill him that is in the head of the government: uſurpation confers an equal right with election or inheritance: we are to look upon the power, not the ways by which it is obtained: poſſeſſion only is to be regarded: and men muſt venerate the preſent power, as ſet up by God, though gained by violence, treachery, or poiſon: children muſt not impoſe laws upon, nor examine the actions of their father. Thoſe who are a little more modeſt, and would content themſelves with the honour of being fathers and lords only of provinces, if they get riches by the favour of the king, or the favour of the king by riches, may receive that honour from him: the lord paramount may make them peculiar lords of each province as ſacred as himſelf; and by theſe means every man ſhall have an immediate and ſubaltern father. This would be a ſpur to excite even the moſt ſleeping luſts; and a poiſon that would fill the gentleſt ſpirits with the moſt violent furies. If men ſhould believe this, there would hardly be found one of whom it might not be ſaid, "hâc ſpe, minanti fulmen occurret Jovi *." No more is required to fill the world with fire and blood, than the reception of theſe precepts. No man can look upon that as a wickedneſs, which ſhall render him ſacred; nor fear to attempt that which ſhall make him God's vicegerent. And I doubt, whether the wickedneſs of filling mens heads with ſuch notions was ever equalled, unleſs by him who ſaid, "ye ſhall not die, but be as gods."

But ſince our author is pleaſed to teach us theſe ſtrange things, I wiſh he would alſo have told us, how many men in every nation ought to be looked upon as adopted fathers; what proportion of riches, ability, or merit, is naturally or divinely required to make them capable of this ſublime character; whether the right of this chimerical father does not deſtroy that of the natural; or whether both continue in force, and men thereby ſtand obliged, in deſpite of what Chriſt ſaid, to ſerve two maſters. For if the right of my artificial father ariſe from any act of the king, in favour of his riches, abilities, or merit, I ought to know whether he is to excel in all, or any one of theſe points, how far, and which of them gives the preference; ſince it is impoſſible for me to determine whether my father, who may be wiſe, though not rich, is thereby diveſted of his right, and it comes to be transferred to another, who may be rich, though not wiſe, nor of any perſonal merit at all, till that point be decided; or ſo much as to gueſs, when I am emancipated from the duty I owe to him, by whom I was begotten and educated, unleſs I know whether he be fallen from his right, through want of merit, wiſdom, or eſtate; and that can never be, till it be determined, that he has forfeited his right, by being defective in all or any of the three; and what proportion of merit, wiſdom, or eſtate, is required in him, for the enjoyment of his right, or in another that would acquire it: for no man can ſucceed to the right of another, unleſs

* Sen. Thyeſt. Act. 2.

the

CHAP. I. the firſt poſſeſſor be rightly deprived of it; and it cannot belong to them both, becauſe common ſenſe univerſally teaches, that two diſtinct perſons cannot, at the ſame time, and in the ſame degree, have an equal right to the ſame individual thing.

The right of father cannot therefore be conferred upon princes by kings, but muſt for ever follow the rule of nature. The character of a father is indelible, and incommunicable. The duty of children ariſing from benefits received is perpetual, becauſe they can never not have received them; and can be due only to him from whom they are received. For theſe reaſons, we ſee, that ſuch as our author calls princes, cannot confer it upon a king; for they cannot give what they have not in themſelves: they who have nothing, can give nothing: they, who are only ſuppoſititious, cannot make another to be real; and the whimſy of kings making princes to be fathers, and princes conferring that right on kings, comes to nothing.

SECTION XX

ALL JUST MAGISTRATICAL POWER IS FROM THE PEOPLE.

Having proved that the right of a father proceeds from the generation and education of his children; that no man can have that right over thoſe, whom he has not begotten and educated; that every man has it over thoſe, who owe their birth and education to him; that all the ſons of Noah, Abraham, Iſaac, Jacob, and others, did equally inherit it; that, by the ſame reaſon, it does for ever belong to every man that begets children; it plainly appears, that no father can have a right over others, unleſs it be by them granted to him, and that he receives his right from thoſe who granted it. But our author, with an admirable ſagacity peculiar to himſelf, diſcovers, and with equal confidence tells us, that that which is from the people, or the chief heads of them, is not from the people: "he that is ſo elected, ſays he, claims not his right from the people as a "donative, but from God." That is, if I miſtake not, Romulus was not made king of the Romans by that people, but by God. Thoſe men, being newly gathered together, had two fathers, though neither of them had any children; and no man knew who was their father, nor which of them was the elder. But Romulus by the ſlaughter of his brother decided all queſtions, and purchaſed to himſelf a royal charter from God; and the act of the people which conferred the power on him, was the act of God. We had formerly learned, that whatever was done by monarchs, was to be imputed to God; and that whoever murdered the father of a people, acquired the ſame right to himſelf: but now it ſeems, that nations alſo have the ſame privilege, and that God does what they do. Now I underſtand why it was ſaid of old, "vox populi eſt vox Dei:" but if it

was

was ſo in regard of Romulus, the ſame muſt be confeſſed of Tullus Hoſtilius, Ancus Martius, Tarquinius Priſcus, and Servius Tullius; who being all ſtrangers to each other, and moſt of them aliens alſo, were ſucceſſively advanced by the ſame people, without any reſpect to the children, relations, or heirs of their predeceſſors. And I cannot comprehend, why the act of the ſame people ſhould not have the ſame virtue, and be equally attributed to God, when they gave the ſame or more power to conſuls, military tribunes, decemviri, or dictators; or why the ſame divine character ſhould not be in the ſame manner conferred upon any magiſtracies, that by any people have been, are, or ſhall be at any time erected for the ſame ends. SECT. 20

Upon the ſame grounds we may conclude, that no privilege is peculiarly annexed to any form of government; but that all magiſtrates are equally the miniſters of God, who perform the work for which they were inſtituted; and that the people which inſtitutes them, may proportion, regulate and terminate their power, as to time, meaſure, and number of perſons, as ſeems moſt convenient to themſelves, which can be no other than their own good. For it cannot be imagined, that a multitude of people ſhould ſend for Numa, or any other perſon to whom they owed nothing, to reign over them, that he might live in glory and pleaſure; or for any other reaſon, than that it might be good for them and their poſterity. This ſhews the work of all magiſtrates to be always and every where the ſame, even the doing of juſtice, and procuring the welfare of thoſe that create them. This we learn from common ſenſe: Plato, Ariſtotle, Cicero, and the beſt human authors, lay it as an immoveable foundation, upon which they build their arguments relating to matters of that nature. And the apoſtle from better authority declares, "that rulers are not a terror to good works, "but to evil. Wilt thou then, ſays he, be afraid of the power? do that "which is good, and thou ſhalt have praiſe of the ſame; for he is the "miniſter of God to thee for good. But if thou do that which is evil, "be afraid; for he beareth not the ſword in vain; for he is the miniſter "of God, a revenger to execute wrath upon him that doeth evil *." And the reaſon he gives "for praying for kings, and all that are in authority," is, "that we may live a quiet and peaceable life, in all godlineſs and "honeſty †." But if this be the work of the magiſtrate, and the glorious name of God's miniſter be given to him for the performance of it, we may eaſily ſee to whom that title belongs. "His children and ſervants "ye are, whoſe works ye do." He therefore, and he only, is the ſervant of God, who does the work of God; who is a terror to thoſe that do evil, and a praiſe to thoſe that do well; who bears the ſword for the puniſhment of wickedneſs and vice, and ſo governs, that the people may live quietly in all godlineſs and honeſty. The order of his inſtitution is inverted, and the inſtitution vacated, if the power be turned to the praiſe of thoſe that do evil, and become a terror to ſuch as do well; ſo that none

* Rom. ch. 13, v. 3. † Tim. 1, ch. 2, v. 2.

who

CHAP. I. who live honeſtly and juſtly can be quiet under it. If God be the fountain of juſtice, mercy, and truth, and thoſe his ſervants who walk in them, no exerciſe of violence, fraud, cruelty, pride, or avarice, is patronized by him. And they, who are the authors of thoſe villainies, cannot but be the miniſters of him, who ſets himſelf up againſt God; becauſe it is impoſſible, that truth and falſhood, mercy and cruelty, juſtice and the moſt violent oppreſſion, can proceed from the ſame root. It was a folly and a lye in thoſe Jews, to call themſelves the children of Abraham, who did not the works of Abraham *; and Chriſt declared them to be the children of the devil, whoſe works they did: which words, proceeding from the eternal truth, do as well indicate to us, whoſe child and ſervant every man is to be accounted, as to thoſe who firſt heard them.

If our author's former aſſertions were void of judgment and truth, his next clauſe ſhews a great defect in his memory, and contradicts the former: "The judgments of God," ſays he, "who hath power to give and take "away kingdoms, are moſt juſt; yet the miniſtry of men, who execute "God's judgments without commiſſion, is ſinful and damnable." If it be true, as he ſays, that we are to look at the power, not the ways by which it is gained; and that he who has it, whether it be by uſurpation, conqueſt, or any other means, is to be accounted as father, or right heir to the father of the people, to which title the moſt ſublime and divine privileges are annexed, a man, who by the moſt wicked and unjuſt actions advances himſelf to the power, becomes immediately the father of the people, and the miniſter of God; which I take to be a piece of divinity worthy our author and his diſciples.

It may be doubted what he means by a commiſſion from God; for we know of none but what is outwardly by his word, or inwardly by his Spirit; and I am apt to think, that, neither he nor his abettors allowing of either, as to the point in queſtion, he does foully prevaricate, in alleging that which he thinks cannot be of any effect. If any man ſhould ſay, that the word of God to Moſes, Joſhua, Ehud, Gideon, Samuel, Jereboam, and Jehu, or any others, are, in the like caſes, rules to be obſerved by all, becauſe that which was from God was good, that which was good, is good, and he that does good, is juſtified by it, he would probably tell us, that what was good in them, is not good in others; and that the word of God does juſtify thoſe only to whom it is ſpoken: that is to ſay, no man can execute the juſt judgments of God, to the benefit of mankind, according to the example of thoſe ſervants of God, without damnable ſin, unleſs he have a preciſe word particularly directed to him for it, as Moſes had. But if any man ſhould pretend, that ſuch a word was come to him, he would be accounted an enthuſiaſt, and obtain no credit. So that, which way ſoever the clauſe be taken, it appears to be full of fraud, confeſſing only in the theory, that which he thinks can never be brought into practice; that his beloved villainies may be thereby ſecured, and that the glo-

* John ch. 8, v. 39

rious

rious examples of the moſt heroic actions, performed by the beſt and wiſeſt men that ever were in the world for the benefit of mankind, may never be imitated. SECT. 19

The next clauſe ſhews, that I did our author no wrong in ſaying, that he gave a right to uſurpation; for he plainly ſays, "that whether the "prince be the ſupreme father of the people, or but the true heir of ſuch "a father; or whether he come to the crown by uſurpation, or by elec-"tion of the nobles, or of the people, or by any other way whatſoever, "&c. it is the only right and authority of the natural father." In the 3d Chap. Sect. 8. he tells us "it ſkills not which way the king comes by his "power, whether by election, donation, ſucceſſion, or by any other means." And in another place, "that we are to regard the power, not the means "by which it is gained." To which I need ſay no more, than that I cannot ſufficiently admire the ingeniouſly invented title of father by uſurpation. And I muſt confeſs, that ſince there is ſuch a thing in the world, to which not only private men but whole nations owe obedience, whatever has been ſaid antiently, as was thought, to expreſs the higheſt exceſs of fury and injuſtice, as, "jus datum ſceleri, jus omne in ferro eſt ſitum," and

"*Jus licèt in jugulos noſtros ſibi fecerit enſe*
"*Sylla potens, Mariuſque ferox, et Cinna cruentus,*
"*Caeſareaeque domûs ſeries** "———

were ſolid truths, good law and divinity; which did not only ſignify the actual exerciſe of the power, but induced a conſcientious obligation of obeying it. The powers ſo gained did carry in themſelves the moſt ſacred and inviolable rights; and the actors of the moſt deteſtable villainies thereby became the miniſters of God, and the fathers of their ſubdued people. Or if this be not true, it cannot be denied, that Filmer and his followers, in the moſt impudent and outragious blaſphemy, have ſurpaſſed all that have gone before them.

To confirm his aſſertions, he gives us a wonderful explanation of the fifth commandment; which, he ſays, injoins obedience to princes, under the terms of "honour thy father and thy mother;" drawing this inference, "that as all power is in the father, the prince who hath it, cannot "be reſtrained by any law; which being grounded upon the perfect likeneſs "between kings and fathers, no man can deny it to be true." But if Claudius was the father of the Roman people, I ſuppoſe the chaſte Meſſalina was the mother, and to be honoured by virtue of the ſame commandment; but then I fear, that ſuch as met her in the moſt obſcene places were not only guilty of adultery, but of inceſt. The ſame honour muſt needs belong to Nero, and his virtuous Poppaea, unleſs it were transferred to his new made woman Sporus: or perhaps he himſelf was the mother, and the glorious title of "pater patriae" belonged to the raſcal, who married him as a woman. The like may be ſaid of Agathocles, Dionyſius, Phalaris, Buſiris, Machanidas, Peter the Cruel of Caſtile, Chriſtiern

* Luc. l. 4, v. 821.

CHAP. I of Denmark, the laſt princes of the houſe of Valois in France, and Philip the ſecond of Spain. Thoſe actions of theirs, which men have ever eſteemed moſt deteſtable, and the whole courſe of their abominable government, did not proceed from pride, avarice, cruelty, madneſs, and luſt, but from the tender care of moſt pious fathers. Tacitus ſadly deſcribes the ſtate of his country: "Urbs incendiis vaſtata, conſumptis antiquiſſimis delubris, ipſo capitolio civium manibus incenſo; pollutae caerimoniae; magna adulteria; plenum exiliis mare; infecti caedibus ſcopuli; atrociùs in urbe ſaevitum; nobilitas, opes, omiſſi geſtique honores pro crimine, et ob virtutes certiſſimum exitium *." But he was to blame: all this proceeded from the ardency of paternal affection. When Nero, by the death of Helvidius Priſcus and Thraſea Paetus, endeavoured to cut up virtue by the roots, "ipſam exſcindere virtutem †," he did it, becauſe he knew it was good for the world that there ſhould be no virtuous man in it. When he fired the city, and when Caligula wiſhed the people had but one neck, that he might ſtrike it off at one blow, they did it through a prudent care of their childrens good, knowing that it would be for their advantage to be deſtroyed; and that the empty deſolated world would be no more troubled with popular ſeditions. By the ſame rule Pharoah, Eglon, Nebuchodonoſor, Antiochus, Herod, and the like, were fathers of the Hebrews. And without looking far backward, or depending upon the faith of hiſtory, we may enumerate many princes, who in a parental care of their people, have not yielded to Nero or Caligula. If our author ſay true, all thoſe actions of theirs, which we have ever attributed to the utmoſt exceſs of pride, cruelty, avarice and perfidiouſneſs, proceeded from their princely wiſdom, and fatherly kindneſs to the nations under them; and we are beholden to him for the diſcovery of ſo great a myſtery, which has been hid from mankind from the beginning of the world to this day: if not, we may ſtill look upon them as children of the devil; and continue to believe, that princes as well as other magiſtrates were ſet up by the people for the public good; that the praiſes given to ſuch as are wiſe, juſt, and good, are purely perſonal, and can belong only to thoſe, who by a due exerciſe of their power do deſerve it, and to no others.

* Tacit. Hiſt. l. 1, § 2.

† Tacit. Ann. l. 16, § 21.

CHAPTER II. SECTION I

THAT IT IS NATURAL FOR NATIONS TO GOVERN, OR TO CHOOSE GOVERNORS; AND THAT VIRTUE ONLY GIVES A NATURAL PREFERENCE OF ONE MAN ABOVE ANOTHER, OR REASON WHY ONE SHOULD BE CHOSEN RATHER THAN ANOTHER.

In this chapter our author fights valiantly againſt Bellarmine and Suarez, ſeeming to think himſelf victorious, if he can ſhew, that either of them has contradicted the other, or himſelf; but being no way concerned in them, I ſhall leave their followers to defend their quarrel. My work is to ſeek after truth; and, though they may have ſaid ſome things, in matters not concerning their beloved cauſe of popery, that are agreeable to reaſon, law, or Scripture, I have little hope of finding it among thoſe who apply themſelves chiefly to ſchool-ſophiſtry, as the beſt means to ſupport idolatry. That which I maintain, is the cauſe of mankind; which ought not to ſuffer, though champions of corrupt principles have weakly defended, or maliciouſly betrayed it. And therefore, not at all relying on their authority, I intend to reject whatever they ſay that agrees not with reaſon, Scripture, or the approved examples of the beſt poliſhed nations. He alſo attacks Plato and Ariſtotle, upon whoſe opinions I ſet a far greater value, inaſmuch as they ſeem to have penetrated more deeply into the ſecrets of human nature; and not only to have judged more rightly of the intereſts of mankind, but alſo to have comprehended in their writings the wiſdom of the Grecians, with all they had learned from the Phoenicians, Egyptians, and Hebrews; which may lead us to the diſcovery of the truth we ſeek. If this be our work, the queſtion is not, whether it be a "paradox," or a received opinion, that people naturally govern, or chooſe governors, but whether it be true or not; for many paradoxes are true, and the moſt groſs errors have often been moſt common. Though I hope to prove, that what he calls a paradox, is not only true, but a truth planted in the hearts of men, and acknowledged ſo to be by all that have hearkened to the voice of nature, and diſapproved by none, but ſuch as through wickedneſs, ſtupidity, or baſeneſs of ſpirit, ſeem to have degenerated into the worſt of beaſts, and to have retained nothing of men, but the outward ſhape, or the ability of doing thoſe miſchiefs which they have learned from their maſter the devil.

We have already ſeen, that the patriarchal power reſembles not the regal in principle or practice; that the beginning and continuance of regal power was contrary to, and inconſiſtent with the patriarchal; that the firſt fathers of mankind left all their children independent on each other, and in an equal liberty of providing for themſelves; that every man continued in this liberty, till the number ſo increaſed, that they became trou-

CHAP. VI bleſome and dangerous to each other; and finding no other remedy to the diſorders growing, or like to grow among them, joined many families into one civil body, that they might the better provide for the conveniency, ſafety, and defence of themſelves and their children. This was a collation of every man's private right into a public ſtock. And no one having any other right than what was common to all, except it were that of fathers over their children, they were all equally free when their fathers were dead; and nothing could induce them to join, and leſſen that natural liberty by joining in ſocieties, but the hopes of a public advantage. Such as were wiſe and valiant procured it, by ſetting up regular governments, and placing the beſt men in the adminiſtration; whilſt the weakeſt and baſeſt fell under the power of the moſt boiſterous and violent of their neighbours. Thoſe of the firſt ſort had their root in wiſdom and juſtice, and are called lawful kingdoms or commonwealths; and the rules, by which they are governed, are known by the name of laws. Theſe governments have ever been the nurſes of virtue. The nations living under them have flouriſhed in peace and happineſs, or made wars with glory and advantage. Whereas the other ſort ſpringing from violence and wrong, have ever gone under the odious title of tyrannies; and by fomenting vices, like to thoſe from whence they grew, have brought ſhame and miſery upon thoſe who were ſubject to them. This appears ſo plainly in Scripture, that the aſſertors of liberty want no other patron than God himſelf; and his word ſo fully juſtifies what we contend for, that it were not neceſſary to make uſe of human authority, if our adverſaries did not oblige us to examine ſuch as are cited by them. This, in our preſent caſe, would be an eaſy work, if our author had rightly marked the paſſages he would make uſe of, or had been faithful in his interpretation or explication of ſuch as he truly cites; but failing groſly in both, it is hard to trace him.

He cites the 16th chapter of the third book of Ariſtotle's politics, and I do not find there are more than twelve *; or though that wound might be cured, by ſaying the words are in the twelfth, his fraud in perverting the ſenſe is unpardonable. It is true, Ariſtotle does there ſeem to doubt, whether there be any ſuch thing as one man naturally a lord over many citizens, ſince a city conſiſts of equals †. But in the whole ſcope of that chapter, book, and his other writings, he fully ſhews, his doubt did not ariſe from an imagination, that one man could naturally inherit a right of dominion over many not deſcended from him, or that they were born under a neceſſity of being ſlaves to him, (for ſuch fancies can proceed only from diſtempered brains;) but that civil ſocieties aiming at the public good, thoſe, who by nature were endowed with ſuch virtues or talents as were moſt beneficial to them, ought to be preferred. And nothing can be more contrary to the frantic whimſy of our author, who fancies an heredi-

* This is a miſtake: Ariſtotle's third book of Politics is divided into 18 chapters.

† Δοκει τισιν ϗδε κατα φυσιν ειναι το κυριον ἑνα παντων ειναι των πολιτων, ὁπϖ συνεστηκεν ἐξ ὁμοιων ἡ πολις· τοις γαρ ὁμοιοις φυσει το αυτο δικαιον, αναγκαιον, και την αυτην αξιαν κατα φυσιν ειναι. Ariſt. Polit. l. 3, c. 16.

tary prerogative of dominion inherent in a perſon as father of a people, or heir, or that he is to be reputed heir of the firſt father, when it is certain he is not, but that either he or his predeceſſor came in by election or uſurpation, than to ſhew, that it is only wiſdom, juſtice, valour, and other commendable virtues, which are not hereditary, that can give the preference; and that the only reaſon why it ſhould be given, is, that men ſo qualified can better than others accompliſh the ends for which ſocieties are conſtituted. For though, ſays he, all are equally free, all are not equally endowed with thoſe virtues that render liberty ſafe, proſperous, and happy. That equality which is juſt among equals, is juſt only among equals; but ſuch as are baſe, ignorant, vicious, ſlothful, or cowardly, are not equal in natural or acquired virtues, to the generous, wiſe, valiant, and induſtrious; nor equally uſeful to the ſocieties in which they live: they cannot therefore have an equal part in the government of them; they cannot equally provide for the common good; and it is not a perſonal, but a public benefit, that is ſought in their conſtitution and continuance. There may be a hundred thouſand men in an army, who are all equally free; but they only are naturally moſt fit to be commanders or leaders, who moſt excel in the virtues required for the right performance of thoſe offices; and that, not becauſe it is good for them to be raiſed above their brethren, but becauſe it is good for their brethren to be guided by them, as it is ever good to be governed by the wiſeſt and the beſt. If the nature of man be reaſon, "detur digniori," in matters of this kind, is the voice of nature; and it were not only a deviation from reaſon, but a moſt deſperate and miſchievous madneſs, for a company going to the Indies, to give the guidance of their ſhip to the ſon of the beſt pilot in the world, if he want the ſkill required for that employment, or to one who was maliciouſly ſet to deſtroy them. He only can have a right, grounded upon the dictates of nature, to be advanced to the helm, who beſt knows how to govern it, and has given the beſt teſtimonies of his integrity and intentions to employ his ſkill for the good of thoſe that are imbarked. But as the work of a magiſtrate, eſpecially if he be the ſupreme, is the higheſt, nobleſt, and moſt difficult, that can be committed to the charge of a man, a more excellent virtue is required in the perſon who is to be advanced to it, than in any other; and he that is moſt excellent in that virtue, is reaſonably and naturally to be preferred before any other. Ariſtotle, having this in his view, ſeems to think, that thoſe who believed it not to be natural for one man to be lord of all the citizens, ſince a city conſiſts of equals, had not obſerved that inequality of endowments, virtues, and abilities, in men, which render ſome more fit than others, for the performance of their duties, and the work intended; but it will not be found, as I ſuppoſe, that he did ever dream of a natural ſuperiority, that any man could ever have in a civil ſociety, unleſs it be ſuch a ſuperiority in virtue, as moſt conduces to the public good *.

* Φανερον, ὡς εν μεν τοις ὁμοιοις, και ισοις, ȣτε συμφερον εςιν, ȣτε δικαιον, ἑνα κυριον ειναι παντων· ȣδ' αν κατ' αρετην αμεινων ῃ, ΕΙ ΜΗ ΤΡΟΠΟΝ ΤΙΝΑ. Ariſt. Polit. l. 3, c. 17—Καθιςαται βασιλευς

CHAP. II. He confirms this in proceeding to examine the different ſorts of governments, according to the different diſpoſitions of nations; and is ſo bold as to ſay, " that a popular government is the beſt for a people, who " are naturally generous and warlike; that the government of a few ſuits " beſt with thoſe, among whom a few men are found to excel others in " thoſe virtues that are profitable to ſocieties; and that the government of " one is good, when that one does ſo far ſurpaſs all others in thoſe virtues, " that he has more of them than all the reſt of the people together *." And for the ſame reaſon that induced him to believe, that equality is juſt among equals, he concludes inequality of power to be moſt unjuſt, unleſs there be inequality of merit; and equality of power to be ſo alſo, when there is inequality of virtue, that being the only rule by which every man's part ought to be regulated.

But if it be neither reaſonable nor juſt, that thoſe who are not equal in virtue ſhould be made equal in power, or that ſuch as are equal in virtue ſhould be unequal in power, the moſt brutal and abominable of all extravagancies is to make one or a few, who in virtue and abilities to perform civil functions are inferior to others, ſuperior to all in power; and the miſeries ſuffered by thoſe nations, who inverting the laws of nature and reaſon, have placed children, or men of no virtue, in the government, when men that excelled in all virtues were not wanting, do ſo far manifeſt this truth, that the pains of proving it may be ſpared.

It is not neceſſary for me to inquire, whether it be poſſible to find ſuch a man as Ariſtotle calls " naturâ regem †," or whether he intended to recommend Alexander to the world, for the man deſigned by God and nature to be king over all, becauſe no man was equal to him in the virtues that were beneficial to all. For purſuing my poſition, that virtue only can give a juſt and natural preference, I ingenuouſly confeſs, that when ſuch a man, or race of men, as he deſcribes, ſhall appear in the world, they carry the true marks of ſovereignty upon them. We ought to believe, that God has raiſed them above all, whom he has made to excel all. It were an impious folly to think of reducing him to the ordinary level of mankind, whom God has placed above it. It were better for us to be guided by him, than to follow our own judgment; nay, I could almoſt ſay, it were better to ſerve ſuch a maſter, than to be free ‡.

βασιλευς εκ των επιεικων καθ' ὑπεροχην αρετης, η πραξεων των απο της αρετης, η καθ' ὑπεροχην τοιαυτα γενος. Ariſt. Polit. l. 5, c. 10

* Αριστοκρατικον πληθος, ὁ πεφυκε φερειν πληθος αρχεσθαι δυναμενον την των ελευθερων αρχην, ὑπο των κατ' αρετην ἡγεμονικων προς πολιτικην αρχην. Πολιτικον δε πληθος, εν ᾧ πεφυκε εγγινεσθαι πληθος πολεμικον, δυναμενον αρχεσθαι και αρχειν κατα νομον, τον κατ' αξιαν διανεμοντα τοις αποροις τας αρχας. Ὁταν ουν η γενος ὁλον, η και των αλλων ἑνα τινα συμβη διαφεροντα γενεσθαι κατ' αρετην τοσουτον, ὡς' ὑπερεχειν την εκεινου της των αλλων πανων, τοτε δικαιον το γενος ειναι τουτο βασιλικον, και κυριον πανων, και βασιλεα τον ἑνα τουτον. Ibid. l. 3, c. 17

† Το δυναμενον τη διανοια προορᾶν, αρχον φυσει, και δεσποζον φυσει. Ibid. l. 1, c. 2. Φυσει γαρ τον βασιλεα διαφερειν μεν δει, τῳ γενει δ' ειναι τον αυτον. Ibid. l. 1, c. 12

‡ Ὡσπερ γαρ θεον εν ανθρωποις εικος ειναι τον τοιουτον. Ibid. l. 3, c. 13——Ὡστε λειπεται μονα το πειθεσθαι τῳ τοιουτῳ, και κυριον ειναι. Ibid. l. 3, c. 17

But this will be nothing to the purpoſe, till ſuch a man, or ſucceſſion of men, do appear. And if our author would perſuade us, that all mankind, or every particular, is obliged to a perpetual ſubjection to one man or family, upon any other condition, he muſt do it by the credit of thoſe who favour his deſign more than Ariſtotle. SECT. I

I know not who that will be, but am confident he will find no help from Plato: for if his principles be examined, by which a grave author's ſenſe is beſt comprehended, it will appear, that all his books of laws, and of a commonwealth, are chiefly grounded upon this, "that magiſtrates are choſen by ſocieties, ſeeking their own good; and that the "beſt men ought to be choſen for the attaining of it *." Whereas, if one rule were by nature appointed for all, and none could juſtly tranſgreſs it, if God had deſigned an univerſal lord over the whole world, or a particular one over every nation, who could be bound by no law, his whole deſign of ſeeking which is the beſt form of government, or what laws do moſt conduce to its perfection and permanency, were utterly abſurd; and they who write books concerning political matters, and take upon them to inſtruct nations how to govern themſelves, would be found either fooliſhly to miſpend their time, or impiouſly to incite people to rebel againſt the ordinance of God. If this can juſtly be imputed to Plato, he is not the wiſe man he is ſuppoſed to have been; and can leſs deſerve the title of divine, which our author gives him. But if he remain juſtly free from ſuch cenſures, it muſt be confeſſed, that whilſt he ſeeks what is good for a people, and to convince them by reaſon that it is ſo, he takes it for granted, that they have a liberty of chooſing that which appears to them to be the beſt. He ſays †, that this good conſiſts in the obtaining of juſtice; but farther explaining himſelf, he ſhews, that under the name of juſtice he comprehends all that tends to their perfection and felicity; inaſmuch as every people, by joining in a civil ſociety, and creating magiſtrates, doth ſeek its own good; and it is juſt, that he or they who are created, ſhould, to the utmoſt of their power, accompliſh the end of their creation, and lead the people to juſtice, without which there is neither perfection nor happineſs; that the proper act of juſtice is to give to every one his due; to man that which belongs to man, and to God that which is God's. But as no man can be juſt, or deſire to be ſo, unleſs he know that juſtice is good; nor know that it is good, unleſs he know that original juſtice and goodneſs, through which all that is juſt is juſt, and all that is good is good, it is impoſſible for any man to perform the part of a good magiſtrate, unleſs he have the knowledge of God; or to bring a people

* Τῃ ποιμενικῃ ου δηπε αλλε τε μελει, η εφ' ᾧ τετακται, ὁπως τετῳ το βελτιϛον εκποριει· ουτω δε ωμην εγωγε νυν δη αναγκαιον ειναι ἡμιν ὁμολογειν, πασαν αρχην, καθοσον αρχη, μηδενα αλλῳ το βελτιϛον σκοπειϛθαι, η εκεινῳ τῳ αρχομενῳ τε και θεραπευομενῳ, εν τε πολιτικῃ και ιδιωτικῃ αρχῃ. Plato de Rep. l. 1

Μεμνησαι αν την προτεραν εκλογην των αρχοντων, οιας εξελεξωμεν; τας τε γαρ βεβαιοτατας και τας ανδρειοτατας προαιρετεον, &c. Ibid. l. 7

† Vide Plat. de Rep. de Leg. etc.

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CHAP. II to juſtice, unleſs he bring them to the knowledge of God, who is the root of all juſtice and goodneſs. If Plato therefore deſerve credit, he only can duly perform the part of a good magiſtrate, whoſe moral virtues are ripened and heightened by a ſuperinduction of divine knowledge. The miſery of man proceeds from his being ſeparated from God: this ſeparation is wrought by corruption: his reſtitution therefore to felicity and integrity, can only be brought about by his reunion to the good from which he is fallen. Plato looks upon this as the only worthy object of man's deſire. And in his laws and politics he intends not to teach us how to erect manufactures, and to increaſe trade or riches; but how magiſtrates may be helpful to nations in the manner before-mentioned, and conſequently what men are fit to be magiſtrates. If our author therefore would make uſe of Plato's doctrine to his end, he ought to have proved, that there is a family in every nation, to the chief of which, and ſucceſſively to the next in blood, God does ever reveal and infuſe ſuch a knowledge of himſelf, as may render him a light to others; and, failing in this, all that he ſays is to no purpoſe.

The weakneſs in which we are born, renders us unable to attain the good of ourſelves: we want help in all things, eſpecially in the greateſt. The fierce barbarity of a looſe multitude, bound by no law, and regulated by no diſcipline, is wholly repugnant to it. Whilſt every man fears his neighbour, and has no other defence than his own ſtrength, he muſt live in that perpetual anxiety, which is equally contrary to that happineſs, and that ſedate temper of mind, which is required for the ſearch of it. The firſt ſtep towards the cure of this peſtilent evil, is for many to join in one body, that every one may be protected by the united force of all; and the various talents that men poſſeſs, may by good diſcipline be rendered uſeful to the whole: as the meaneſt piece of wood or ſtone, being placed by a wiſe architect, conduces to the beauty of the moſt glorious building. But every man bearing in his own breaſt affections, paſſions, and vices, repugnant to this end, and no man owing any ſubmiſſion to his neighbour, none will ſubject the correction or reſtriction of themſelves to another, unleſs he alſo ſubmit to the ſame rule. They are rough pieces of timber or ſtone, which it is neceſſary to cleave, ſaw, or cut: this is the work of a ſkilful builder, and he only is capable of erecting a great fabric, who is ſo. Magiſtrates are political architects; and they only can perform the work incumbent on them, who excel in political virtues. Nature, in variouſly framing the minds of men, according to the variety of uſes, in which they may be employed, in order to the inſtitution and preſervation of civil ſocieties, muſt be our guide, in allotting to every one his proper work. And Plato, obſerving this variety, affirms, that the laws of nature cannot be more abſurdly violated, than by giving the government of a people to ſuch, as do not excel others in thoſe arts and virtues, that tend to the ultimate ends for which governments are inſtituted. By this means thoſe who are ſlaves by nature, or rendered ſo by their vices, are often ſet above thoſe that God and nature had fitted

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for the higheſt commands; and ſocieties, which ſubſiſt only by order, fall into corruption, when all order is ſo prepoſterouſly inverted, and the moſt extreme confuſion introduced *. This is an evil that Solomon deteſted: "Folly is ſet in great dignity, and the rich ſit in low places. I have ſeen "ſervants upon horſes, and princes walking as ſervants upon the earth †." They who underſtand Solomon's language, will eaſily ſee, that the rich, and the princes he means, are ſuch only who are rich in virtue and wiſdom, and who ought to be preferred for thoſe qualities. And when he ſays, a ſervant that reigneth is one of the "three things the earth cannot bear," he can only mean ſuch as deſerve to be ſervants; for when they reign, they do not ſerve, but are ſerved by others. Which perfectly agrees with what we learn from Plato, and plainly ſhews, that true philoſophy is perfectly conformable with what is taught us by thoſe who were divinely inſpired. Therefore, though I ſhould allow to our author, that Ariſtotle, in theſe words, "it ſeems to ſome, not to be natural for one man to be "lord of all the citizens, ſince the city conſiſts of equals ‡," did ſpeak the opinion of others rather than his own; and ſhould confeſs, that he, and his maſter Plato, did acknowledge a natural inequality among men, it would be nothing to his purpoſe. For the inequality, and the rational ſuperiority due to ſome, or to one, by reaſon of that inequality, did not proceed from blood or extraction, and had nothing patriarchal in it; but conſiſted ſolely in the virtues of the perſons, by which they were rendered more able than others to perform their duty, for the good of the ſociety. Therefore, if theſe authors are to be truſted, whatever place a man is advanced to in a city, it is not for his own ſake, but for that of the city; and we are not to aſk, who was his father, but what are his virtues in relation to it. This induces a neceſſity of diſtinguiſhing between a ſimple and a relative inequality. For, if it were poſſible for a man to have great virtues, and yet no way beneficial to the ſociety of which he is, or to have ſome one vice that renders them uſeleſs, he could have no pretence to a magiſtratical power more than any other. They, who are equally free, may equally enjoy their freedom; but the powers that can only be executed by ſuch as are endowed with great wiſdom, juſtice, and valour, can belong to none, nor be rightly conferred upon any, except ſuch as excel in thoſe virtues. And if no ſuch can be found, all are equally by turns to participate of the honours annexed to magiſtracy; and law, which is ſaid to be written reaſon, cannot juſtly exalt thoſe whom nature, which is reaſon, has depreſſed, nor depreſs thoſe whom nature has exalted. It cannot make kings ſlaves, nor ſlaves kings, without introducing that evil, which,

SECT. I

* Παντι δηλον, ὁτι μεγαλȣ της νομοθεσιας οντος εργȣ, τȣ πολιν ευ παρεσκευασμενην αρχας ανεπιτηδειȣς επιςησαι τοις ευ κειμενοις νομοις, ȣ μονον ȣδεν πλεον ευ τεθεντων, ȣδ' ὁτι γελως αν παμπολυς ξυμβαινοι, σχεδον δε βλαβαι και λωβαι πολυμεγιςαι ταις πολεσι γιγνοιντ' αν εξ αυτων. Plato de Leg. l. 6, §. 1

† Eccl. ch. 10, v. 6, 7

‡ Δοκει δε τισιν ȣδε κατα φυσιν ειναι το κυριον ἑνα παντων ειναι των πολιτων, ὁπȣ συνεςηκεν εξ ὁμοιων ἡ πολις. Ariſt. Polit. l. 3, c. 16

CHAP. II

if we believe Solomon, and the Spirit by which he ſpoke, " the earth " cannot bear." This may diſcover what lawgivers deſerve to be reputed wiſe or juſt; and what decrees or ſanctions ought to be reputed laws. Ariſtotle, proceeding by this rule, rather tells us, who is naturally a king, than where we ſhould find him; and after having given the higheſt praiſes to this true natural king, and his government, he ſticks not to declare that of one man, in virtue equal or inferior to others, to be a mere tyranny, even the worſt of all, as it is the corruption of the beſt, or, as our author calls it, the moſt divine, and ſuch as can be fit only for thoſe barbarous and ſtupid nations, which, though bearing the ſhape of men, are little different from beaſts. Whoever therefore will from Ariſtotle's words infer, that nature has deſigned one man, or ſucceſſion of men, to be lords of every country, muſt ſhew that man to be endowed with all the virtues, that render him fit for ſo great an office, which he does not bear for his own pleaſure, glory, or profit, but for the good of thoſe that are under him; and, if that be not done, he muſt look after other patrons than Ariſtotle for his opinion.

Plato does more explicitly ſay, that the civil or politic man, the ſhepherd, father, or king of a people, is the ſame, deſigned for the ſame work, enabled to perform it by the excellency of the ſame virtues, and made perfect by the infuſion of the divine wiſdom. This is Plato's monarch; and I confeſs, that wherever he does appear in the world, he ought to be accounted as ſent from God for the good of that people. His government is the beſt that can be ſet up among men; and if aſſurance can be given, that his children, heirs, or ſucceſſors, ſhall for ever be equal to him in the above-mentioned virtues, it were a folly, and a ſin, to bring him under the government of any other, or to an equality with them, ſince God had made him to excel them all; and it is better for them to be ruled by him, than to follow their own judgment. This is that which gives him the preference: he is wiſe through the knowledge of the truth, and thereby becomes good, happy, pure, beautiful, and perfect. The divine light, ſhining forth in him, is a guide to others; and he is a fit leader of a people to the good that he enjoys *. If this can be expreſſed by words in faſhion, this is his prerogative; this is the royal charter given to him by God; and to him only, who is ſo adapted for the performance of his office. He that ſhould pretend to the ſame privileges, without the ſame abilities to perform the works for which they are granted, would exceed the folly of a child, that takes upon him a burden, which can only be borne by a giant; or the madneſs of one who preſumes to give phyſic, and underſtands not the art of a phyſician, thereby drawing guilt upon himſelf, and death upon his patient. It were as vain to expect that a child ſhould carry the giant's burden, and that an ignorant man

* Δικαιως μεν γαρ πρατ̃ουντες και σωφρονως συ τε και ἡ πολις θεοφιλως πραξετε· και εις τὸ θειον και λαμπρον ὁρωντες πραξετε. Αλλα μην ενταυθα γε βλεποντες, ὑμας τε αυτ̃ους και τα ὑμετερα αγαθα καλ̃οψεσθε τε και γνωσεσθε. Plato in Alcib. Dial. 1.

ſhould

ſhould give wholeſome phyſic, as that one, who lives void of all knowledge of good, ſhould conduct men to it. Whenever therefore ſuch a man, as is above deſcribed, does not appear, nature and reaſon inſtruct us to ſeek him or them who are moſt like to him, and to lay ſuch burdens upon them as are proportionable to their ſtrength; which is as much as to ſay, to prefer every man according to his merit, and aſſign to every one ſuch works, as he ſeems able to accompliſh. SECT. I

But that Plato and Ariſtotle may neither be thought unreaſonably addicted to monarchy, nor, wholly rejecting it, to have talked in vain of a monarch, that is not to be found, it is good to conſider, that this is not a fiction. Moſes, Joſhua, Samuel, and others, were ſuch as they define; and were made to be ſuch, by that communion with God, which Plato requires. And he in all his writings, intending the inſtitution of ſuch a diſcipline as ſhould render men happy, wiſe, and good, could take no better way to bring his countrymen to it, than by ſhewing them, that wiſdom, virtue, and purity, only, could make a natural difference among men.

It is not my work to juſtify theſe opinions of Plato, and his ſcholar Ariſtotle: they were men, and, though wiſe and learned, ſubject to error. If they erred in theſe points, it hurts not me, nor the cauſe I maintain; ſince I make no other uſe of their books, than to ſhew the impudence and prevarication of thoſe, who gather ſmall ſcraps out of good books, to juſtify their aſſertions concerning ſuch kings as are known amongſt us; which, being examined, are found to be wholly againſt them; and, if they were followed, would deſtroy their perſons and power.

But our author's intention being only to cavil, or to cheat ſuch as are not verſed in the writings of the antients, or at leaſt to cauſe thoſe, who do not make truth their guide, to waver and fluctuate in their diſcourſes, he does in one page ſay, "that without doubt Moſes's hiſtory of "the creation guided theſe philoſophers in finding out this lineal ſub-"jection;" and in the next affirms, "that the ignorance of the creation "occaſioned ſeveral amongſt the heathen philoſophers to think that men "met together as herds of cattle." Whereas they could not have been ignorant of the creation, if they had read the books that Moſes wrote; and, having that knowledge, they could not think that men met together as herds of cattle. However, I deny that any of them did ever dream of that lineal ſubjection, derived from the firſt parents of mankind, or that any ſuch thing was to be learned from Moſes. Though they did not perhaps juſtly know the beginning of mankind, they did know the beginnings and progreſs of the governments under which they lived; and, being aſſured that the firſt kingdoms had been thoſe, which they called "heroum regna," that is, of thoſe who had been moſt beneficial to mankind; that their deſcendents in many places, degenerating from their virtues, had given nations occaſion to ſet up ariſtocracies; and they alſo falling into corruption, to inſtitute democracies, or mixed governments, did rightly conclude, that every nation might juſtly order

CHAP. II their own affairs, according to their own pleaſure; and could have neither obligation nor reaſon to ſet up one man or a few above others, unleſs it did appear to them that they had more of thoſe virtues, which conduce to the good of civil ſocieties, than the reſt of their brethren.

Our author's cavil upon Ariſtotle's opinion, "that thoſe who are wiſe "in mind are by nature fitted to be lords, and thoſe who are ſtrong of "body ordained to obey *," deſerves no anſwer; for he plainly falſifies the text. Ariſtotle ſpeaks only of thoſe qualities which are required for every purpoſe; and means no more, than that ſuch as are eminent in the virtues of the mind deſerve to govern, though they do not excel in bodily ſtrength; and that they who are ſtrong of body, though of little underſtanding, and incapable of commanding, may be uſeful in executing the commands of others: but is ſo far from denying that one man may excel in all the perfections of mind and body, that he acknowledges him only to be a king by nature who does ſo, both being required for the full performance of his duty. And if this be not true, I ſuppoſe that one who is like Agrippa Poſthumus, "robore corporis ſtolidè ferox †," may be fit to govern many nations; and Moſes or Samuel, if they naturally wanted bodily ſtrength, or if it was decayed by age, might juſtly be made ſlaves; which is a diſcovery worthy our author's invention.

SECTION II

EVERY MAN THAT HAS CHILDREN, HAS THE RIGHT OF A FATHER, AND IS CAPABLE OF PREFERMENT IN A SOCIETY COMPOSED OF MANY.

I am not concerned in making good what Suarez ſays: a jeſuit may ſpeak that which is true; but it ought to be received, as from the devil, cautiouſly, leſt miſchief be hid under it. And Sir Robert's frequent prevarications upon the Scripture, and many good authors, give reaſon to ſuſpect he may have falſified one, that few proteſtants read, if it ſerved to his purpoſe; and not mentioning the place, his fraud cannot eaſily be diſcovered, unleſs it be by one who has leiſure to examine all his vaſtly voluminous writings. But as to the point in queſtion, that pains may be ſaved: there is nothing that can be imputed to the invention of Suarez. "That Adam had only an oeconomical, not a political power," is not the voice of a jeſuit, but of nature and common ſenſe: for politic ſignifying no more in Greek, than civil in Latin, it is evident there could be no civil power, where there was no civil ſociety; and there could be none between him and his children; becauſe a civil ſociety is compoſed of equals,

* Το μεν δυναμενον τη διανοια προορᾶν, αρχον φυσει, και δεσποζον φυσει· το δε δυναμενον τω σωματι ταυτα ποιειν, αρχομενον, και φυσει δουλον. Ariſt. Polit. l. 1, c. 2.

† Tacit. Ann. l. 1, c. 3.

and

and fortified by mutual compacts, which could not be between him and his children; at leaſt, if there be any thing of truth in our author's doctrine, "that all children do perpetually and abſolutely depend upon the "will of their father." Suarez ſeems to have been of another opinion; and obſerving the benefits we receive from parents, and the veneration we owe to them to be reciprocal, he could not think any duty could extend farther than the knowledge of the relation upon which it was grounded; and makes a difference between the power of a father, before and after his children are made free; that is in truth, before and after they are able to provide for themſelves, and to deliver their parents from the burden of taking care of them. Which will appear rational to any, who are able to diſtinguiſh between what a man of fifty years old, ſubſiſting by himſelf, and having a family of his own, and a child of eight, does owe to his father. The ſame reaſon that obliges a child to ſubmit entirely to the will of his parents, when he is utterly ignorant of all things, does permit, and often injoin, men of ripe age to examine the commands they receive before they obey them. And it is not more plain, that I owe all manner of duty, *affection*, and *reſpect*, to him that did beget and educate me, than that I can owe nothing on any ſuch account to one that did neither. SECT. 2.

This may have been the opinion of Suarez. But I can hardly believe ſuch a notion, as, "that Adam in proceſs of time might have ſervants," could proceed from any other brain than our author's; for if he had lived to this day, he could have had none under him but his own children; and if a family be not complete without ſervants, his muſt always have been *defective*; and his kingdom muſt have been ſo too, if that has ſuch a reſemblance to a family, as our author fancies. This is evident, that a hard father may uſe his children as ſervants, or a rebellious ſtubborn ſon may deſerve to be ſo uſed; and a gentle and good maſter may ſhew that kindneſs to faithful and well-deſerving ſervants, which reſembles the ſweetneſs of a fatherly rule: but neither of them can change their nature; a ſon can never grow to be a ſervant, nor a ſervant to be a ſon. If a family therefore be not complete, unleſs it conſiſt of children and ſervants, it cannot be like to a kingdom or city, which is compoſed of freemen and equals: ſervants may be in it, but are not members of it. As truth can never be repugnant to juſtice, it is impoſſible this ſhould be a prejudice to the paternal rule, which is moſt juſt; eſpecially when a grateful remembrance of the benefits received doth ſtill remain, with a neceſſary and perpetual obligation of repaying them in all affection and duty. Whereas the care of ever providing for their families, as they did probably increaſe in the time of our firſt long-living fathers, would have been an inſupportable burden to parents, if it had been incumbent on them. We do not find that Adam exerciſed any ſuch power over Cain, when he had ſlain Abel, as our author fancies to be regal. The murderer went out, and built a city for himſelf, and called it by the name of his firſt-born. And we have not the leaſt reaſon to believe, that after Adam's death Cain had any dominion over his brethren, or their poſterity; or any one of

CHAP. II them over him and his. He feared that whoever ſaw him would kill him: which language does not agree with the rights belonging to the haughty title of heir apparent to the dominion of the whole earth. The like was practiſed by Noah and his ſons, who ſet up colonies for themſelves; but lived as private men in obſcure places, whilſt their children of the fourth or fifth generation, eſpecially of the youngeſt and accurſed ſon, were great and powerful kings, as is fully proved in the firſt chapter.

Though this had been otherwiſe, it would have no effect upon us; for no argument, drawn from the examples of Shem, Ham, and Japhet, if they and their children had continued under the dominion of Noah as long as he lived, can oblige me to reſign myſelf, and all my concernments, abſolutely into the hands of one who is not my father. But when the contrary is evidently true in them, and their next enſuing generations, it is an admirable boldneſs in our author, to think of impoſing upon us, for an eternal and univerſal law (when the knowledge of our firſt progenitors is utterly extinguiſhed) that which was not at all regarded by thoſe, who could not be ignorant of their own original, or the duty thereby incumbent upon them, or their immediate fathers then living, to whom the rights muſt have belonged, if there had been any ſuch thing in nature, or they had been of any advantage to them. Whereas in truth, if there had been ſuch a law in the beginning, it muſt have vaniſhed of itſelf, for want of being exerciſed in the beginning; and could not poſſibly be revived after four thouſand years, when no man in the world can poſſibly know to whom the univerſal right of dominion over the whole world, or particular nations, does belong: for it is in vain to ſpeak of a right, when no one man can have a better title to it than any other. But there being no precept in the Scripture for it; and the examples directed or approved by God himſelf, and his moſt faithful ſervants, being inconſiſtent with, and contrary to it, we may be ſure there never was any ſuch thing; and that men, being left to the free uſe of their own underſtanding, may order and diſpoſe of their own affairs as they think fit. No man can have a better title than another, unleſs for his perſonal virtues; every man, that in the judgment of thoſe concerned excels in them, may be advanced. And thoſe nations, that through miſtake ſet up ſuch as are unworthy, or do not take right meaſures in providing for a ſucceſſion of men worthy, and other things neceſſary to their welfare, may be guilty of great folly, to their own ſhame and miſery; but can do no injuſtice to any, in relation to an hereditary right, which can be naturally in none.

SECTION III.

GOVERNMENT IS NOT INSTITUTED FOR THE GOOD OF THE GOVERNOR, BUT OF THE GOVERNED; AND POWER IS NOT AN ADVANTAGE, BUT A BURDEN.

The follies, with which our author endeavours to corrupt and trouble the world, ſeem to proceed from his fundamental miſtakes of the ends, for which governments are conſtituted; and from an opinion, that an exceſſive power is good for the governor, or the diminution of it a prejudice. Whereas common ſenſe teaches, and all good men acknowledge, that governments are not ſet up for the advantage, profit, pleaſure, or glory of one or a few men, but for the good of the ſociety. For this reaſon Plato and Ariſtotle find no more certain way of diſtinguiſhing between a lawful king and a tyrant, than that the firſt ſeeks to procure the common good, and the other his own pleaſure or profit; and doubt not to declare, that he, who according to his inſtitution was the firſt, deſtroys his own being, and degenerates into the latter, if he deflect from that rule: he that was the beſt of men, becomes the worſt; and the father or ſhepherd of the people makes himſelf their enemy. And we may from hence collect, that, in all controverſies concerning the power of magiſtrates, we are not to examine what conduces to their profit or glory, but what is good for the public.

His ſecond error is no leſs groſs and miſchievous than the firſt; and that abſolute power, to which he would exalt the chief magiſtrate, would be burdenſome, and deſperately dangerous, if he had it. The higheſt places are always ſlippery: mens eyes are dazzled when they are carried up to them; and all falls from them are mortal. Few kings or tyrants, ſays Juvenal, go down to the grave in peace*; and he did not imprudently couple them together, becauſe in his time few or no kings were known, who were not tyrants. Dionyſius thought no man left a tyranny, till he was drawn out by the heels. But Tacitus ſays, "neſcit quam grave & intolerandum ſit cuncta regendi onus †." Moſes could not bear it. Gideon would not accept of any reſemblance of it. The moral ſenſe of Jotham's wiſe parable is eternal: the bramble coveted the power, which the vine, olive, and fig-tree refuſed. The worſt and baſeſt of men are ambitious of the higheſt places, which the beſt and wiſeſt reject; or if ſome, who may be otherwiſe well qualified—

[In this place two pages are wanting in the original manuſcript.]

*———Sine caede & vulnere pauci
Deſcendunt reges, & ſiccâ morte tyranni. Juv. Sat. x, v. 112

† The paſſage in Tacitus is expreſſed in a different manner. Tiberius, after Auguſtus's death, ſays, in his ſpeech to the ſenate, "Se—experiendo didiciſſe, quam arduum, quam ſubjectum fortunae, regendi cuncta onus." Ann. l. 1, c. 11.

———as

CHAP. II ——as the fitteſt to be followed by mankind. If theſe philoſophers and divines deſerve credit, Nimrod, Ninus, Pharoah, and the reſt of that accurſed crew, did not commit ſuch exceſſes as were condemned by God, and abhorred by good men; but, gaining to themſelves the glorious character of his vicegerents, left their practices as a perpetual law to all ſucceeding generations; whereby the world, and every part of it, would be for ever expoſed to the violence, cruelty, and madneſs, of the moſt wicked men that it ſhould produce. But if theſe opinions comprehend an extravagancy of wickedneſs and madneſs, that was not known among men, till ſome of theſe wretches preſumed to attempt the increaſe of that corruption under which mankind groans, by adding fuel to the worſt of all vices, we may ſafely return to our propoſitions, that, God having eſtabliſhed no ſuch authority as our author fancies, nations are left to the uſe of their own judgment, in making proviſion for their own welfare; that there is no lawful magiſtrate over any of them, but ſuch as they have ſet up; that, in creating them, they do not ſeek the advantage of their magiſtrate, but their own: and, having found that an abſolute power over the people is a burden, which no man can bear, and that no wiſe or good man ever deſired it; from thence we may conclude, that it is not good for any to have it, nor juſt for any to affect it, though it were perſonally good for himſelf; becauſe he is not exalted to ſeek his own good, but that of the public.

SECTION IV

THE PATERNAL RIGHT DEVOLVES TO, AND IS INHERITED BY ALL THE CHILDREN.

Though the perverſity of our author's judgment and nature may have driven him into the groſſeſt errors, it is not amiſs to obſerve, that many of thoſe delivered by him proceed from his ignorance of the moſt important differences between father and lord, king and tyrant; which are ſo evident and irreconcileable, that one would have thought no man could be ſo ſtupid as not to ſee it impoſſible for one and the ſame man, at the ſame time, to be father and maſter, king and tyrant, over the ſame perſons. But leſt he ſhould think me too ſcrupulous, or too ſtrict in inquiring after truth, I intend for the preſent to wave that inquiry, and to ſeek what was good for Adam and Noah; what we have reaſon to believe they deſired to tranſmit to their poſterity, and to take it for a perpetual law in its utmoſt extent; which I think will be of no advantage to our author: for this authority, which was univerſal during their lives, muſt neceſſarily, after their deceaſe, be divided, as an inheritance, into as many parcels as they had children. The apoſtle ſays, "If children, then heirs, heirs of God, and joint-heirs with Chriſt*;" which, alluding to the laws

* Rom. ch. 8, v. 17

and cuſtoms of nations, could have been of no force, unleſs it had been true and known to be ſo. But if children are heirs, or joint-heirs, whatever authority Adam or Noah had, is inherited by every man in the world; and that title of heir, which our author ſo much magnifies, as if it were annexed to one ſingle perſon, vaniſhes into nothing: or elſe the words of the apoſtle could have neither ſtrength nor truth in them, but would be built upon a falſe foundation; which may perhaps agree with our author's divinity. SECT. 4

Yet, if the apoſtle had not declared himſelf ſo fully in this point, we might eaſily have ſeen, that Adam and Noah did leave their children in that equality: for fathers are ever underſtood to embrace all their children with equal affection, till the diſcovery of perſonal virtues and vices makes a difference. But the perſonal virtues, that give a reaſonable preference of one before another, or make him more fit to govern than the others, cannot appear before he is, nor can be annexed to any one line: therefore the father cannot be thought to have given to one man, or his deſcendents, the government of his brethren and their deſcendents.

Beſides, *though the law of England may make one man to be ſole heir of his father, yet the laws of God and nature do not ſo. All the children of Noah were his heirs.* The land promiſed to Abraham, Iſaac, and Jacob, was equally divided among their children. If the children of Joſeph made two tribes, it was not as the firſt-born, but by the will of Jacob, who adopted Ephraim and Manaſſeh; and they thereby became his ſons, and obtained an inheritance equal to that of the other tribes. The *law allowed* a double portion to the firſt-begotten; but this made a difference between the brothers only in proportion: whereas that between lord and ſervant is in ſpecie, not in degree. And if our author's opinion might take place, inſtead of ſuch a diviſion of the common inheritance between brothers, as was made between the children of Jacob, all muſt continue for ever ſlaves to one lord; which would eſtabliſh a difference in ſpecie between brethren, which nature abhors.

If nature does not make one man lord over his brethren, he can never come to be their lord, unleſs they make him ſo, or he ſubdue them. If he ſubdue them, it is an act of violence contrary to right, which may conſequently be recovered. If they make him lord, it is for their own ſakes, not for his; and he muſt ſeek their good, not his own, leſt, as Ariſtotle ſays, he degenerate from a king into a tyrant. He therefore who would perſuade us, that the dominion over every nation does naturally belong to one man, woman, or child, at a venture, or to the heir, whatever he or ſhe be, as to age, ſex, or other qualifications, muſt prove it good for all nations to be under them. But as reaſon is our nature, that can never be natural to us that is not rational. Reaſon gives "paria pari-" bus," equal power to thoſe who have equal abilities and merit: it allots to every one the part he is moſt fit to perform; and this fitneſs muſt be equally laſting with the law that allots it. But as it can never be good for

CHAP. II great nations, having men amongſt them of virtue, experience, wiſdom, and goodneſs, to be governed by children, fools, or vicious and wicked perſons, and we neither find, that the virtues required in ſuch as deſerve to govern them, did ever continue in any race of men, nor have reaſon to believe they ever will, it can never be reaſonable to annex the dominion of a nation to any one line. We may take this upon Solomon's word, "Wo "to thee, O land, when thy king is a child, and thy princes eat in the "morning*!" and I wiſh the experience of all ages did not make this truth too evident to us. This therefore can never be the work, much leſs the law, of nature. And if there be any ſuch thing in the world, as the dominion over a nation inſeparably united to a man and his family, it can have no other root, than a civil or municipal law, which is not the ſubject of our diſcourſe.

Moreover, every father's right muſt ceaſe, when he ceaſes to be; or be tranſmitted to thoſe, who, being alſo fathers, have the ſame title to it. And, though the contrary method of annexing the whole inheritance to one perſon, or expoſing all his brethren to be deſtroyed by his rage, if they will not ſubmit, may conduce to the enlargement of a proud and violent empire, as in Turky, where he that gains the power, uſually begins his reign with the ſlaughter of his brothers and nephews, yet it can never agree with the piety, gentleneſs, and wiſdom, of the patriarchs, or the laws of God and nature.

Theſe things being agreed, we need not trouble ourſelves with the limits or definition of a family, and as little with the titles given to the head of it: it is all one to us, whether it be confined to one roof and fire, or extended farther; and none but ſuch as are ſtrangers to the practice of mankind, can think that titles of civility have a power to create a right of dominion. Every man in Latin is called "dominus," unleſs ſuch as are of the vileſt condition, or in a great ſubjection to thoſe who ſpeak to them; and yet the word, ſtrictly taken, relates only to "ſervus;" for a man is lord only of his ſervant or ſlave. The Italians are not leſs liberal of the titles of "ſignore" and "padrone," and the Spaniards of "ſen- "nor:" but he would be ridiculous in thoſe countries, who thereupon ſhould arrogate to himſelf a right of dominion over thoſe who are ſo civil. The vanity of our age ſeems to carry this point a little higher, eſpecially among the French, who put a great weight upon the word "prince:" but they cannot change the true ſignification of it; and even in their ſenſe, "prince du ſang" ſignifies no more than a chief man of the royal blood, to whom they pay much reſpect, becauſe he may come to the crown; as they at Rome do to cardinals, who have the power of chooſing popes, and out of whoſe number, for ſome ages, they have been choſen. In this ſenſe did Scaevola, when he was apprehended by Porſenna, ſay, "trecenti "conjuravimus principes juventutis Romanae†;" which was never other- wiſe underſtood, than of ſuch young citizens as were remarkable among

* Eccl. ch. 10, v. 16. † Liv. l. 2, c. 12

their

their companions. And nothing can be more abſurd than to think, if the name of prince had carried an abſolute and deſpotical power with it, that it could belong to three hundred in a city, that poſſeſſed no more than a ten miles territory; or that it could have been given to them, whilſt they were young, and the moſt part of their fathers, as is moſt probable, ſtill living. SECT. 4

I ſhould, like our author, run round in a circle, if I ſhould refute what he ſays of a regal power in our firſt parents; or ſhew that the regal, where it is, is not abſolute, as often as he does aſſert it. But, having already proved, that Adam, Noah, Abraham, Iſaac, Jacob, &c. enjoyed no ſuch power, tranſmitted to every one of their ſons that which they had, and they became fathers of many great nations, who always continued independent on each other, I leave to our author to prove, when, and by what law, the right of ſubdividing the paternal power was ſtopped; and how any one or more of their deſcendents came to have that power over their brethren, which none of their immediate children had over theirs.

His queſtion to Suarez, how and when ſons become free, ſavours more of jeſuitical ſophiſtry, than any thing ſaid by the jeſuit. But the ſolution is eaſy: for if he mean the reſpect, veneration, and kindneſs proceeding from gratitude, it ceaſes only with the life of the father to whom it is due, and the memory of it muſt laſt as long as that of the ſon; and if they had been poſſeſſed of ſuch an abſolute power as he fancies, it muſt have ceaſed with the reaſons upon which it was grounded.

Firſt, becauſe the power, of which a father would probably have made a wiſe and gentle uſe, could not be rightly truſted in the hands of one who is not a father; and that, which tended only to the preſervation of all the children, could not be turned to the increaſe of the pride, luxury, and violence of one, to the oppreſſion of others, who are equally heirs.

In the ſecond place, ſocieties cannot be inſtituted, unleſs the heads of the families, that are to compoſe them, reſign ſo much of their right, as ſeems convenient, into the public ſtock, to which every one becomes ſubject. But that the ſame power ſhould, at the ſame time, continue in the true father, and the figurative father, the magiſtrate, and that the children ſhould owe entire obedience to the commands of both, which may often croſs each other, is abſurd.

Thirdly, it ceaſes when it cannot be executed; as when men live to ſee four or five generations, as many do at this day; becauſe the ſon cannot tell whether he ſhall obey his father, grandfather, or great-grandfather, and cannot be equally ſubject to them all; eſpecially, when they live in divers places, and ſet up families of their own, as the ſons of the patriarchs did. Which being obſerved, I know no place where this paternal power could have any effect, unleſs in the fabulous iſland of Pines; and even there it muſt have ceaſed, when he died, who, by the inventor of the ſtory, is ſaid to have ſeen above ten thouſand perſons iſſued of his body.

And if it be ſaid, that Noah, Shem, Abraham, &c. conſented that their children ſhould go where they thought fit, and provide for themſelves, I

CHAP. II anſwer, that the like has been done in all ages, and muſt be done for ever. It is the voice of nature, obeyed, not only by mankind, but by all living creatures; and there is none ſo ſtupid as not to underſtand it. A hen leaves her chickens, when they can ſeek their own nouriſhment. A cow looks after her calf no longer, than till it is able to feed. A lioneſs gives over hunting for her whelps, when they are able to ſeek their own prey, and have ſtrength enough to provide what is ſufficient for themſelves. And the contrary would be an inſupportable burden to all living creatures, but eſpecially to men: for the good order, that the rational nature delights in, would be overthrown, and civil ſocieties, by which it is beſt preſerved, would never be eſtabliſhed.

We are not concerned to examine, whether the political and oeconomical powers be entirely the ſame, or in what they differ: for that abſolute power, which he contends for, is purely deſpotical, different from both, or rather inconſiſtent with either as to the ſame ſubject; and that which the patriarchs exerciſed, having been equally inherited by their children, and conſequently by every one of their poſterity, it is as much as is required for my purpoſe of proving the natural univerſal liberty of mankind; and I am no way concerned in the queſtion, whether the firſt parents of mankind had a power of life and death over their children, or not.

SECTION V.

FREEMEN JOIN TOGETHER, AND FRAME GREATER OR LESS SOCIETIES, AND GIVE SUCH FORMS TO THEM AS BEST PLEASE THEMSELVES.

This being eſtabliſhed, I ſhall leave Filmer to fight againſt Suarez or Bellarmine; or to turn one of them againſt the other, without any concernment in the combat, or the ſucceſs of it. But ſince he thereupon raiſes a queſtion, "whether the ſupreme power be ſo in the people, that there is "but one and the ſame power in all the people of the world, ſo that no "power can be granted, unleſs all the men upon the earth meet, and "agree to chooſe a governor," I think it deſerves to be anſwered, and might do it by propoſing a queſtion to him: whether in his opinion, the empire of the whole world does, by the laws of God and nature, belong to one man, and who that man is? or, how it came ſo to be divided, as we have ever known it to have been, without ſuch an injury to the univerſal monarch, as can never be repaired? But intending to proceed more candidly, and not to trouble myſelf with Bellarmine or Suarez, I ſay, that they, who place the power in a multitude, underſtand a multitude compoſed of freemen, who think it for their convenience to join together, and to eſtabliſh ſuch laws and rules as they oblige themſelves to obſerve: which multitude, whether it be great or ſmall, has the ſame right; becauſe ten men

men are as free as ten millions of men; and though it may be more prudent in ſome caſes to join with the greater than the ſmaller number, becauſe there is more ſtrength, it is not ſo always. But however every man muſt therein be his own judge; ſince if he miſtake, the hurt is only to himſelf; and the ten may as juſtly reſolve to live together, frame a civil ſociety, and oblige themſelves to laws, as the greateſt number of men that ever met together in the world. SECT. 5.

Thus we find that a few men, aſſembling together upon the banks of the Tiber, reſolved to build a city, and ſet up a government among themſelves. And the multitude that met at Babylon, when their deſign of building a tower that ſhould reach up to heaven failed, and their language was confounded, divided themſelves, as our author ſays, into ſeventy two parcels, and by the ſame right might have divided into more, as their deſcendents did into almoſt an infinite number, before the death of their common father Noah. But we cannot find a more perfect picture of freemen, living according to their own will, than in Abraham and Lot. They went together into Canaan, continued together as long as was convenient for them, and parted when their ſubſtance did ſo increaſe, that they became troubleſome to each other. In the like manner Iſhmael, Iſaac, and Abraham's ſix ſons by Keturah might have continued together, and made one nation. Iſaac and Eſau, Moab and Ammon, might have done ſo too; or all of them that came of the ſame ſtock might have united together: but they did not. Their deſcendents by the ſame rule might have ſubdivided perpetually, if they had thought it expedient for themſelves. And if the ſons of Jacob did not do the like, it is probable they were kept together by the hope of an inheritance promiſed to them by God; in which we find no ſhadow of a deſpotical dominion, affected by one as father or heir to the firſt father, or reputed to be the heir; but all continued in that fraternal equality, which, according to Abraham's words to Lot, they ought to do *. There was no lord, ſlave or vaſſal; no ſtrife was to be among them; they were brethren; they might live together, or ſeparate, as they found it convenient for themſelves. By the ſame law that Abraham and Lot, Moab and Ammon, Iſhmael, Iſaac, and the ſons of Keturah, Jacob, Eſau, and their deſcendents, did divide, and ſet up ſeveral governments, every one of their children might have done the like: and the ſame right remained to their iſſue, till they had by agreement engaged themſelves to each other. But if they had no dependence upon each other, and might live together in that fraternal equality which was between Abraham and Lot, or ſeparate, and continue in that ſeparation, or reunite, they could not but have a right of framing ſuch conditions of their reunion as beſt pleaſed themſelves. By this means every number of men, agreeing together, and framing a ſociety, became a complete body, having all power in themſelves over themſelves, ſubject to no other human law than their own.

* Let there be no ſtrife, I pray thee, between me and thee; for we are brethren. Gen. ch. 13. v. 8.

All

CHAP. II All thoſe, that compoſe the ſociety, being equally free to enter into it or not, no man could have any prerogative above others, unleſs it were granted by the conſent of the whole. And nothing obliging them to enter into this ſociety, but the conſideration of their own good, that good, or the opinion of it, muſt have been the rule, motive, and end, of all that they did ordain. It is lawful therefore for any ſuch bodies to ſet up one, or a few men, to govern them, or to retain the power in themſelves. And he or they who are ſet up, having no other power but what is ſo conferred upon them by that multitude, whether great or ſmall, are truly by them made what they are; and, by the laws of their own creation, are to exerciſe thoſe powers according to the proportion, and to the ends, for which they were given.

Theſe rights, in ſeveral nations and ages, have been variouſly executed in the eſtabliſhment of monarchies, ariſtocracies, democracies, or mixed governments, according to the variety of circumſtances; and the governments have been good or evil, according to the rectitude or pravity of their inſtitution, and the virtue and wiſdom, or the folly and vices of thoſe to whom the power was committed. But the end which was ever propoſed, being the good of the public, they only performed their duty, who procured it according to the laws of the ſociety, which were equally valid as to their own magiſtrates, whether they were few or many.

This might ſuffice to anſwer our author's queſtion; but he endeavours farther to perplex it, by a fiction of his own brain, "that God gave this "power to the whole multitude only, and not to any particular aſſembly "of men;" and expects a proof, "that the whole multitude met, and "divided this power which God gave them in groſs, by breaking into "parcels, and by appointing a diſtinct power to each commonwealth." He alſo fathers it upon the aſſertors of liberty; "and does not ſee," as he ſays, "how there can be an election of a magiſtrate by any common-"wealth, that is not an uſurpation upon the privilege of the whole world, "unleſs all mankind had met together, and divided the power into "parcels which God had given them in groſs." But before I put myſelf to the trouble of anſwering that which is but an appendix to a whimſy of his own, I may juſtly aſk, what hurt he finds in uſurpation, who aſſerts, that the ſame obedience is due to all monarchs, whether they come in by inheritance, election or uſurpation? If uſurpation can give a right to a monarch, why does it not confer the ſame upon a people? or rather, if God did in groſs confer ſuch a right upon all mankind, and they neither did, nor can meet together by conſent to diſpoſe of it for the good of the whole, why ſhould not thoſe, who can, and do conſent to meet together, agree upon that which ſeems moſt expedient to them for the government of themſelves? Did God create man under the neceſſity of wanting government, and all the good that proceeds from it, becauſe at the firſt all did not, and afterwards all could not meet to agree upon rules? Or did he ever declare, that, unleſs they uſed the firſt opportunity of dividing themſelves into ſuch parcels as were to remain unalterable, the right of

reigning

reigning over every one ſhould fall to the firſt villain that ſhould dare to attempt it? Is it not more conſonant to the wiſdom and goodneſs of God, to leave to every nation a liberty of repairing the miſchiefs, fallen upon them through the omiſſion of their firſt parents, by ſetting up governments among themſelves, than to lay them under a neceſſity of ſubmitting to any that ſhould inſolently aſpire to a domination over them? Is it not more juſt and reaſonable to believe, that the univerſal right, not being executed, devolves upon particular nations, as members of the great body, than that it ſhould become the reward of violence or fraud? Or is it poſſible that any one man can make himſelf lord of a people, or parcel of that body, to whom God had given the liberty of governing themſelves, by any other means than violence or fraud, unleſs they did willingly ſubmit to him? If this right be not devolved upon any one man, is not the invaſion of it the moſt outrageous injury that can be done to all mankind, and moſt particularly to the nation that is enſlaved by it? Or if the juſtice of every government depends neceſſarily upon an original grant, and a ſucceſſion certainly deduced from our firſt fathers, does not he by his own principles condemn all the monarchies of the world, as the moſt deteſtable uſurpations; ſince not one of them, that we know, do any way pretend to it? Or, though I, who deny any power to be juſt that is not founded upon conſent, may boldly blame uſurpation, is it not an abſurd and unpardonable impudence in Filmer, to condemn uſurpation in a people, when he has declared that the right and power of a father may be gained by uſurpation; and that nations in their obedience are to regard the power, not the means by which it was gained? But not to loſe more time upon a moſt frivolous fiction, I affirm, that the liberty, which we contend for, is granted by God to every man in his own perſon, in ſuch a manner as may be uſeful to him and his poſterity, and as it was exerciſed by Noah, Shem, Abraham, Iſaac, Jacob, &c. and their children, as hath been proved, and not to the vaſt body of all mankind, which never did meet together ſince the firſt age after the flood, and never could meet to receive any benefit by it. SECT. 5.

His next queſtion deſerves ſcorn and hatred, with all the effects of both, if it proceed from malice; though perhaps he may deſerve compaſſion, if his crime proceed from ignorance. "Was a general meeting "of a whole kingdom," ſays he, "ever known for the election of a "prince?" But if there never were any general meetings of whole nations, or of ſuch as they did delegate and intruſt with the power of the whole, how did any man that was elected come to have a power over the whole? Why may not a people meet to chooſe a prince, as well as any other magiſtrate? Why might not the Athenians, Romans, or Carthaginians, have choſen princes as well as archons, conſuls, dictators, or ſuffetes, if it had pleaſed them? Who choſe all the Roman kings, except Tarquin the Proud, if the people did not; ſince their hiſtories teſtify, that he was the firſt who took upon him to reign "ſine juſſu populi*?" Who

* Conſcius malè quaerendi regni ab ſe ipſo adverſus ſe exemplum capi poſſe, armatis corpus circumſepſit: neque enim ad jus regni quicquam praeter vim habebat, ut qui neque populi juſſu, neque auctoribus patribus regnaret. Liv. l. 1, § 49

CHAP. IS ever heard of a king of the Goths in Spain, that was not choſen by the nobility and people? Or, how could they chooſe him, if they did not meet in their perſons, or by their deputies, which is the ſame thing, when a people has agreed it ſhould be ſo? How did the kings of Sweden come by their power, unleſs by the like election, till the crown was made hereditary, in the time of Guſtavus the Firſt, as a reward of his virtue and ſervice in delivering that country from the tyranny of the Danes? How did Charles Guſtavus come to be king, unleſs it was by the election of the nobility? He acknowledged by the act of his election, and upon all occaſions, that he had no other right to the crown than what they had conferred on him. Did not the like cuſtom prevail in Hungary and Bohemia, till thoſe countries fell under the power of the houſe of Auſtria? and in Denmark, till the year 1660? Do not the kings of Poland derive their authority from this popular election, which he derides? Does not the ſtile of the oath of allegiance uſed in the kingdom of Arragon, as it is related by Antonio Perez, ſecretary of ſtate to Philip II. ſhew, that their kings were of their own making? Could they ſay, "we, who are as good as "you, make you our king, on condition that you keep and obſerve our "privileges and liberties, and if not, not *," if he did not come in by their election? Were not the Roman emperors in diſorderly times choſen by the ſoldiers; and in ſuch as were more regular, by the ſenate with the conſent of the people?

Our author may ſay, the whole body of theſe nations did not meet at their elections; though that is not always true. For in the infancy of Rome, when the whole people dwelt within the walls of a ſmall city, they did meet for the choice of their kings, as afterwards for the choice of other magiſtrates. Whilſt the Goths, Franks, Vandals, and Saxons, lived within the precincts of a camp, they frequently met for the election of a king, and raiſed upon a target the perſon they had choſen. But, finding that to be inconvenient, or rather impoſſible, when they were vaſtly increaſed in number, and diſperſed over all the countries they had conquered, no better way was found, than to inſtitute gemotes, parliaments, diets, cortez, aſſemblies of eſtates, or the like, to do that which formerly had been performed by themſelves. And when a people is, by mutual compact, joined together in a civil ſociety, there is no difference, as to right, between that which is done by them all in their own perſons, or by ſome deputed by all, and acting according to the powers received from all.

If our author was ignorant of theſe things, which are the moſt common in all hiſtories, he might have ſpared the pains of writing upon more abſtruſe points; but it is a ſtupendous folly in him, to preſume to raiſe doctrines depending upon the univerſal law of God and nature, without examining the only law that ever God did, in a public manner, give to man. If he had looked into it, he might have learned, that all Iſrael was, by the command of God, aſſembled at Mizpeh to chooſe a king, and did chooſe Saul. He being ſlain, all Judah came to Hebron, and made David

* Nos que valemos tanto come vos, os hacemos nueſtro rey, con tal que vos guardeis nueſtros fueros y libertades, y ſino, no. Relacion. de Ant. Perez.

their

their king: after the death of Iſhboſheth, all the tribes went to Hebron, and anointed him king over them, and he made a covenant with them before the Lord. When Solomon was dead, all Iſrael met together in Sechem; and ten tribes, diſliking the proceedings of Rehoboam, rejected him, and made Jeroboam their king *. The ſame people, in the time of the judges, had general aſſemblies, as often as occaſion did require, to ſet up a judge, to make war or the like: and the ſeveral tribes had their aſſemblies to treat of buſineſs relating to themſelves. The hiſtories of all nations, eſpecially of thoſe that have peopled the beſt parts of Europe, are ſo full of examples in this kind, that no man can queſtion them, unleſs he be brutally ignorant, or maliciouſly contentious. The great matters among the Germans were tranſacted omnium conſenſu. "De minoribus "conſultant principes; de majoribus omnes †." The "micelgemote" among the Saxons was an aſſembly of the whole people: the "barona-"gium" is truly ſaid to be the ſame, in as much as it comprehended all the freemen, that is, all the people; for the difference between "civis" and "ſervus" is irreconcileable; and no man, whilſt he is a ſervant, can be a member of a commonwealth; for he, that is not in his own power, cannot have a part in the government of others. All the fore-mentioned northern nations had the like cuſtoms among them: the governments they had were ſo inſtituted. The utmoſt, that any now remaining pretends to, is, to derive their right from them. If, according to Filmer, theſe firſt aſſemblies could not confer it upon the firſt, they had none: ſuch as claim under them, can inherit none from thoſe that had none; and there can be no right in all the governments we ſo much venerate; and nothing can tend more to their overthrow than the reception of our author's doctrine. SECT. 5

Though any one inſtance would be ſufficient to overthrow his general negative propoſition (for a rule is not generally true, if there be any juſt exception againſt it) I have alleged many, and find it ſo eaſy to increaſe the number, that there is no nation, whoſe original we know, out of whoſe hiſtories I will not undertake to produce the like. But I have not been ſolicitous preciſely to diſtinguiſh, which nations have acted in their own perſons, and which have made uſe of delegates; nor in what times they have changed from one way to the other: for, if any have acted by themſelves, the thing is poſſible; and whatever is done by delegated powers, muſt be referred to their principals; for none can give to any a power which they have not in themſelves.

He is graciouſly pleaſed to confeſs, that "when men are aſſembled by "a human power, the power that doth aſſemble them, may alſo limit "the manner of the execution of that power, &c. But in aſſemblies that "take their authority from the law of nature, it is not ſo; for what

* 1 Sam. ch. 10, v. 17. 2 Sam. ch. 2, v. 4. 2 Sam. ch. 5, v. 3. 1 Kings, ch. 22, v. 20

† De minoribus rebus principes conſultant, de majoribus omnes: ita tamen, ut ea quoque, quorum penes plebem arbitrium eſt, apud principes pertractentur. Tacit. De Mor. Germ. § 11

CHAP. II

" liberty or freedom is due to any man by the law of nature, no inferior " power can alter, limit, or diminiſh: no one man, or multitude of " men, can give away the natural right of another." Theſe are ſtrong lines, and ſuch as, if there be any ſenſe in them, utterly overthrow all our author's doctrine. For if any aſſembly of men did ever take their authority from the law of nature, it muſt be of ſuch as, remaining in the entire fruition of their natural liberty, and reſtrained by no contract, meet together to deliberate of ſuch matters as concern themſelves; and if they can be reſtrained by no one man, or number of men, they may diſpoſe of their own affairs as they think fit. But becauſe no one of them is obliged to enter into the ſociety that the reſt may conſtitute, he cannot enjoy the benefit of that ſociety unleſs he enter into it: he may be gone, and ſet up for himſelf, or ſet up another with ſuch as will agree with him. But if he enter into the ſociety, he is obliged by the laws of it; and if one of thoſe laws be, that all things ſhould be determined by the plurality of voices, his aſſent is afterwards comprehended in all the reſolutions of that plurality. Reuben or Simeon might, according to the laws of nature, have divided themſelves from their brethren, as well as Lot from Abraham, or Iſhmael and the ſons of Keturah from Iſaac. But when they, in hopes of having a part in the inheritance promiſed to their fathers, had joined with their brethren, a few of their deſcendents could not have a right, by their diſſent, to hinder the reſolutions of the whole body, or ſuch a part of it, as by the firſt agreement was to paſs for an act of the whole. And the Scripture teaches us, that when the lot was fallen upon Saul, they who deſpiſed him were ſtiled " men of Belial *;" and the reſt, after his victory over the Ammonites, would have ſlain them, if he had permitted. In the like manner, when a number of men met together to build Rome, any man who had diſliked the deſign, might juſtly have refuſed to join in it; but when he had entered into the ſociety, he could not by his vote invalidate the acts of the whole, nor deſtroy the rights of Romulus, Numa, and the others, who by the ſenate and people were made kings; nor thoſe of the other magiſtrates, who after their expulſion were legally created.

This is as much as is required to eſtabliſh the natural liberty of mankind in its utmoſt extent, and cannot be ſhaken by our author's ſurmiſe, " that a gap is thereby opened for every ſeditious multitude to raiſe " a new commonwealth." For till the commonwealth be eſtabliſhed, no multitude can be ſeditious, becauſe they are not ſubject to any human law; and ſedition implies an unjuſt and diſorderly oppoſition of that power which is legally eſtabliſhed; which cannot be when there is none, nor by him who is not a member of the ſociety that makes it; and when it is made, ſuch as entered into it, are obliged by the laws of it.

This ſhewing the root and foundation of civil powers, we may judge of the uſe and extent of them, according to the letter of the law, or the true intentional meaning of it; both which declare them to be purely human ordinances, proceeding from the will of thoſe who ſeek their

* 1 Sam. ch. 10, v. 27.

own good; and may certainly infer, that, ſince all multitudes are compoſed of ſuch as are under ſome contract, or free from all, no man is obliged to enter into thoſe contracts againſt his own will, nor obliged by any to which he does not aſſent. Thoſe multitudes, that enter into ſuch contracts, and thereupon form civil ſocieties, act according to their own will: thoſe that are engaged in none, take their authority from the law of nature; their rights cannot be limited or diminiſhed by any one man, or number of men; and conſequently whoever does it, or attempts the doing of it, violates the moſt ſacred laws of God and nature. SECT. 5

His cavils concerning proxies, and the way of uſing them, deſerve no anſwer, as relating only to one ſort of men amongſt us, and can have no influence upon the laws of nature, or the proceedings of aſſemblies, acting according to ſuch rules as they ſet to themſelves. In ſome places they have voted all together in their own perſons, as in Athens; in others by tribes, as in Rome; ſometimes by delegates, when the number of the whole people is ſo great, that no one place can contain them, as in the parliaments, diets, general aſſemblies of eſtates, long uſed in the great kingdoms of Europe. In other parts many cities are joined together in leagues, as *antiently the Achaians, Etolians, Samnites, Tuſcans*; and in theſe times *the ſtates of Holland*, and cantons of Switzerland. But our author, not regarding ſuch matters, in purſuance of his folly, with an ignorance as admirable as his ſtupidity, repeats his challenge: "I aſk," ſays he, "but "one example out of the hiſtory of the whole world; let the com-"mon-wealth be named, where the multitude, or ſo much as the major "part of it, conſented, either by voice, or procuration, to the election of "a prince;" not obſerving, that if an anſwer could not be given, he did overthrow the rights of all the princes that are, or ever have been, in the world. For if the liberty of one man cannot be limited or diminiſhed by one, or any number of men, and none can give away the right of another, it is plain, that the ambition of one man, or of many, a faction of citizens, or the mutiny of an army, cannot give a right to any over the liberties of a whole nation. Thoſe, who are ſo ſet up, have their root in violence or fraud, and are rather to be accounted robbers and pirates, than magiſtrates. Leo Africanus, obſerving in his hiſtory, that, ſince the extinction of Mahomet's race (to whom his countrymen thought God had given the empire of the world) their princes did not come in by the conſent of thoſe nations which they governed, ſays, that they are eſteemed thieves; and that on this account, the moſt honourable men among the Arabians and Moors ſcorn to eat, drink, or make alliances with them *. And if the caſe were as general as that author makes it, no better rule could be any where followed by honourable and worthy men. But a good cauſe muſt not be loſt by the fault of an ill advocate: the rights of kings muſt not periſh, becauſe Filmer knows not how to defend, or does maliciouſly betray them. I have already proved that David, and divers of the judges, were choſen by all Iſrael; Jeroboam by ten tribes; all the kings

* Deſc. Afric. ***

CHAP. II of Rome, except Tarquin the Proud, by the whole city. I may add many examples of the Saxons in our own country. Ina and Offa were made kings "omnium conſenſu." Theſe "all" are expreſſed plainly by the words, "archiepiſcopis, epiſcopis, abbatibus, ſenatoribus, ducibus, et po-"pulo terrae *." Egbert came to the crown by the ſame authority: "omnium conſenſu rex creatur †." Ethelwolf the monk, "neceſſitate "cogente, factus eſt rex, et conſenſus publicus in regem dari petiit ‡." Ethelſtan, though a baſtard, "electus eſt magno conſenſu optimatum, et "à populo conſalutatus §." In the like manner, Edwin's government being diſliked, they choſe Edgar: "unanimi omnium conſpiratione, "Edwino dejecto, elegerunt, Deo dictante, Edgarum in regem, et annu-"ente populo;" and in another place, "Edgarus ab omni Anglorum "populo electus eſt **." Ironſide being dead, Canutus was received by the general conſent of all, "juraverunt illi, quod eum regem ſibi eligere "vellent: foedus etiam cum principibus et omni populo ipſe, et illi cum "ipſo percuſſerunt:" whereupon, "omnium conſenſu ſuper totam An-"gliam Canutus coronatur ††." "Hardicanutus gaudenter ab omnibus "ſuſcipitur, & electus eſt ‡‡." The ſame author ſays, Edward the Confeſſor

* Gens de regno Merciorum, contra regem ſuum Beornredum inſurgens, pro eo quod populum non aequis legibus, ſed per tyrannidem gubernaret, convenerunt in unum omnes tam nobiles quam ignobiles, et Offa duce, adoleſcente ſtrenuiſſimo, ipſum à regno expu'erunt. Quo facto, unanimi omnium conſenſu Offam in regem tam clerus quam populus coronarunt. Mat. Weſt. Flor. Hiſt. ann. 758

Ina, magis pro inſitivae virtutis induſtriâ, quam ſucceſſivae ſobolis proſapiâ, in principatum aſcitur. Will. Malmeſb. l. 1, p. 14

In the council at Calchuth, A. D. 787, it was decreed, Ut legitimè reges à ſacerdotibus & ſenioribus populi eligantur. And, at the concluſion of the decrees which were made in that aſſembly, it is ſaid: Haec decreta, beatiſſime papa Hadriane, in concilio publico, coram rege Aelfuualdo, et archiepiſcopo Eanbaldo, et omnibus epiſcopis et abbatibus regionis, ſeu ſenatoribus, et ducibus, et populo terrae, propoſuimus, etc. Spelm. Concil. p. 296, 300

† Egbertus, ex Galliâ properè in patriam reverſus, omnium conſenſu rex creatur. . . . . Rex occiduus à Cerdicio decimus ſeptimus ab omnibus conſalutatus. Polyd. Verg. Angl. Hiſt. l. 4, p. 88, et l. 5, p. 89. Ed. Baſil. 1534

‡ Adelwulfus primum fuerat epiſcopus; ſed Egbrictho patre ſuo defuncto, neceſſitate cogente, factus eſt rex. Hovend. Annal. p. 413. Hunting. Hiſt. l. 5, p. 348. Ed. Franc. 1601

§ Magno conſenſu optimatum Aethelſtanus electus; apud regiam villam, quae vocatur Kingſton coronatus. Will. Malmeſb. l. 2, c. 6.——Adelſtanus à Cerdicio vigeſimus quartus, ex concubinâ Edouardi filius, rex à populo conſalutatur. Polyd. Verg. l. 6. p. 109

** Quo [Eadwio] unanimi omnium conſpiratione, dejecto, elegerunt, Deo dictante, fratrem ejus Eadgarem in regem, et annuente populo, res regni publica diſpertita inter fratres, Thameſis fluvius regnum diſterminaret amborum. . . . . Eadwii regnum frater ejus Eadgarus, ab omni populo electus, ſuſcipiens, diviſa regna in unum compaginavit. Mat. Weſt. ann. 957, et 959

†† Rex Canutus ab optimatibus fidelia juramenta recepit; et illi juraverunt illi quod illum regem ſibi eligere vellent.——Hoc anno totius Angliae ſuſcepit imperium: foedus etiam cum principibus, et omni populo percuſſit, et amicitiam firmam inter ſe juramentis ſtabilierunt. Hovend. Annal. p. 436.——Inſidiis Edmundus occiſus eſt, et omnium conſenſu Cnutus ſuper totam Angliam coronatus. Ingulphi Hiſt. p. 892

‡‡ Hardicanutus gaudenter ab omnibus ſuſcipitur, regnique ſolio mox ſublimatur. Hovend.

SECT. 5

fessor "electus est in regem ab omni populo;" and another, "omnium "electione in Edwardum concordatur *." Though the name of "Con-"queror" be odiously given to William the Norman, he had the same title to the crown with his predecessors: "in magna exultatione à clero "et populo susceptus, & ab omnibus rex acclamatus †." I cannot recite all the examples of this kind, that the history of almost all nations furnishes, unless I should make a volume in bulk not inferior to the book of martyrs. But those which I have mentioned out of the sacred, Roman, and English history, being more than sufficient to answer our author's challenge, I take liberty to add, that though there could not be one example produced of a prince, or any other magistrate, chosen by the general consent of the people, or by the major part of them, it could be of no advantage to the cause he has undertaken to maintain. For when a people has either indefinitely, or under certain conditions and limitations, resigned their power into the hands of a certain number of men, or agreed upon rules, according to which persons should, from time to time, be deputed for the management of their affairs, the acts of those persons, if their power be without restrictions, are of the same value as the acts of the whole nation, and the assent of every individual man is comprehended in them. If the power be limited, whatever is done, according to that limitation, has the same authority. If it does therefore appear, as is testified by the laws and histories of all our northern nations, that the power of every people is either wholly, or to such a degree as is necessary for creating kings, granted to their several gemotes, diets, cortez, assemblies of estates, parliaments, and the like, all the kings, that they have any where, or at any time chosen, do reign by the same authority, and have the same right, as if every individual man of those nations had assented to their election. But that these gemotes, diets, and other assemblies of state, have every where had such powers, and executed them by rejecting or setting up kings, and that the kings, now in being among us, have received their beginning from such acts, has been fully proved, and is so plain in itself, that none but those who are grosly stupid or impudent can deny it. Which is enough to shew, that all kings are not set up by violence, deceit, faction of a few powerful men, or the mutinies of armies; but from the consent of such multitudes, as joining together, frame civil societies; and either in their own persons at general assemblies, or by their delegates, confer a just and legal power upon them: which our author rejecting, he does, as far as in him lies, prove them all to be usurpers and tyrants.

vend. Annal. p. 438.——Hardecnut filius regis Cnut, et Emmae reginae, veniens à Daciâ, illicò susceptus est, et electus in regem simul ab Anglis et Dacis. Hunting. Hist. l. 6, p. 365

* Edwardus cum paucis venit in Angliam, et electus est in regem ab omni populo. Hunting. Hist. l. 6, p. 365.—Post Hardecnuti obitum omnium electione in Edwardum concordatur. Ingulphi Hist p. 950

† Anno Domini 1067 Dux Normanniae Willielmus, urbem Londinarum adiens, in magnâ exultatione à clero et populo susceptus, et ab omnibus rex acclamatus, dominicae nativitatis die ab Aldredo, Eboracensi archiepiscopo, regni diadema susceptit. Mat. Paris. p. 5. Mat. West. ann. 1067. p. 225

SECTION VI

THEY, WHO HAVE A RIGHT OF CHOOSING A KING, HAVE THE RIGHT OF MAKING A KING

Though the right of magiſtrates does eſſentially depend upon the conſent of thoſe they govern, it is hardly worth our pains to examine, "whether "the ſilent acceptation of a governor, by part of the people, be an "argument of their concurring in the election of him; or whether, by "the ſame reaſon, the tacit conſent of the whole commonwealth may be "maintained." For when the queſtion is concerning right, fraudulent ſurmiſes are of no value; much leſs will it from thence follow, "that a "prince commanding by ſucceſſion, conqueſt, or uſurpation, may be ſaid "to be elected by the people;" for evident marks of diſſent are often given. Some declare their hatred; others murmur more privately; many oppoſe the governor or government, and ſucceed according to the meaſure of their ſtrength, virtue, or fortune. Many would reſiſt, but cannot; and it were ridiculous to ſay, that the inhabitants of Greece, the kingdom of Naples, or dutchy of Tuſcany, do tacitly aſſent to the government of the Great Turk, king of Spain, or duke of Florence; when nothing is more certain than that thoſe miſerable nations abhor the tyrannies they are under; and, if they were not maſtered by a power that is much too great for them, they would ſoon free themſelves. And they who are under ſuch governments, do no more aſſent to them, though they may be ſilent, than a man approves of being robbed, when, without ſaying a word, he delivers his purſe to a thief that he knows to be too ſtrong for him.

It is not therefore the bare ſufferance of a government when a diſguſt is declared, nor a ſilent ſubmiſſion when the power of oppoſing is wanting, that can imply an aſſent or election, and create a right; but an explicit act of approbation, when men have ability and courage to reſiſt or deny. Which being agreed, it is evident that our author's diſtinction between "eligere" and "inſtituere" ſignifies nothing: though, if the power of inſtituting were only left to nations, it would be ſufficient; for he is in vain elected who is not inſtituted; and he that is inſtituted is certainly elected; for his inſtitution is an election. As the Romans, who choſe Romulus, Numa, and Hoſtilius, to be kings, and Brutus, Valerius, or Lucretius, to be conſuls, did make them ſo, and their right was ſolely grounded upon their election. The text brought by our author againſt this does fully prove it: "Thou ſhalt ſet him king over thee, whom the "Lord ſhall chooſe *." For God did not only make the inſtitution of a king to be purely an act of the people, but left it to them to inſtitute one or not, as ſhould beſt pleaſe themſelves; and the words, "whom the

* Deut. ch. 17, v. 15

"Lord

" Lord ſhall chooſe," can have no other ſignification, than that the people reſolving to have a king, and following the rules preſcribed by his ſervant Moſes, he would direct them in their choice: which relates only to that particular people in covenant with God, and immediately under his government, which no other was. But this pains might have been ſaved, if God by a univerſal law had given a rule to all. The Iſraelites could not have been three hundred years without a king, and then left to the liberty of making one, or not, if he by a perpetual law had ordained, that every nation ſhould have one; and it had been as well impertinent as unjuſt to deliberate who ſhould be king, if the dominion had by right of inheritance belonged to one: they muſt have ſubmitted to him whether they would or not. No care was to be taken in the election or inſtitution of him, who, by his birth, had a right annexed to his perſon, that could not be altered. He could not have been forbidden " to multiply ſilver or gold," who by the law of his creation might do what he pleaſed. It had been ridiculous to ſay, " he ſhould not raiſe his heart above his brethren," who had no brethren, that is, no equals; but was raiſed above all by God, who had impoſed upon all others a neceſſity of obeying him. But God, who does nothing in vain, did neither conſtitute or elect any till they deſired it, nor command them to do it themſelves, unleſs it ſo pleaſed themſelves; nor appoint them to take him out of any one line. Every Iſraelite might be choſen; none but ſtrangers were excluded; and the people were left to the liberty of chooſing and inſtituting any one of their brethren. SECT. 6

Our author, endeavouring by Hooker's authority to eſtabliſh his diſtinction between " eligere" and " inſtituere," deſtroys it, and the paternal right, which he makes the foundation of his doctrine. " Heaps of " Scriptures are alleged," ſays he, " concerning the ſolemn coronation or " inauguration of Saul, of David, of Solomon, and others, by the " nobles, antients, and people of the commonwealth of Iſrael *:" which is enough to prove that the whole work was theirs; that no other had any title more than what they beſtowed upon him; that kings were ſet up by the nobles, antients, and people. Even God did no otherwiſe intervene than by ſuch a ſecret diſpoſition of the lots by his providence, as is exerciſed in the government of all the things in the world. And we cannot have a more certain evidence, that a paternal right to dominion is a mere whimſy, than that God did not cauſe the lot to fall upon the eldeſt, of the eldeſt line, of the eldeſt tribe; but upon Saul, a young man, of the youngeſt tribe. And afterwards, though he had deſigned David, Solomon, Jeroboam, and others, who had no pretence to the paternal right to be kings, he left both the election and inſtitution of them to the elders and people.

But Hooker being well examined, it will appear, that his opinions are as contrary to the doctrine of our author, as thoſe we have mentioned

* Hooker's Eccl. Polit. b. 8, ch. 2, cited by Filmer.

our

CHAP. II out of Plato and Ariſtotle. He plainly ſays, " it is impoſſible, that any " ſhould have a complete lawful power over a multitude, conſiſting of ſo " many families, as every politic ſociety doth, but by conſent of men, or " immediate appointment of God; becauſe not having the natural ſupe- " riority of fathers, their power muſt needs be either uſurped, and then " unlawful; or if lawful, then either granted or conſented unto by them " over whom they exerciſe the ſame, or elſe given extraordinarily by " God *." And though he thinks kings to have been the firſt governors ſo conſtituted, he adds, " that this is not the only regiment that hath " been received in the world. The inconveniences of one kind have " cauſed ſundry others to be deviſed. So that in a word, all public regi- " ment, of what kind ſoever, ſeemeth evidently to have riſen from deli- " berate advice, conſultation, and compoſition, between men, judging it " convenient and behoveful." And a little below, " man's nature ſtand- " ing therefore as it doth, ſome kind of regiment the law of nature doth " require; yet the kinds thereof being many, nature tieth not to any " one, but leaveth the choice as a thing arbitrary." And again, " to " live by one man's will, became the cauſe of all men's miſery. This " conſtrained them to come unto laws, &c. But as thoſe laws do not " only teach that which is good, but enjoin it, they have in them a " conſtraining force; and to conſtrain men to any thing inconvenient " doth ſeem unreaſonable. Moſt requiſite therefore it is, that, to deviſe " laws, which all men ſhall be forced to obey, none but wiſe men ſhould " be admitted. . . Moreover, that which we ſay, concerning the power of " government, muſt here be applied unto the power of making laws, " whereby to govern; which power God hath over all; and by the na- " tural law, whereunto he hath made all ſubject, the lawful power of " making laws, to command whole politic ſocieties of men, belongeth ſo " properly unto the ſame entire ſocieties, that for any prince or potentate, " of what kind ſoever upon earth, to exerciſe the ſame of himſelf, and " not either by expreſs commiſſion immediately from God, or elſe by " authority derived at the firſt from their conſent, upon whoſe perſons " they impoſe laws, it is no better than mere tyranny. Laws therefore " they are not, which public conſent hath not made ſo †." The humour of our age conſidered, I ſhould not have ventured to ſay ſo much; but if Hooker be a man of ſuch great authority, I cannot offend in tranſcribing his words, and ſhewing how vilely he is abuſed by Filmer; concluding, that if he be in the right, the choice and conſtitution of government, the making of laws, coronation, inauguration, and all that belongs to the chooſing and making of kings, or other magiſtrates, is merely from the people; and that all power exerciſed over them, which is not ſo, is uſurpation and tyranny, unleſs it be by an immediate commiſſion from God; which if any man has, let him give teſtimony of it, and I will confeſs he

* Eccl. Polit. b. 1, ch. 10. † Ibid.

come:

comes not within the reach of our reaſonings, but ought to be obeyed by thoſe to whom he is ſent, or over whom he is placed. SECT. 6

Nevertheleſs our author is of another opinion; but ſcorning to give us a reaſon, he adds to Hooker's words, "as if theſe ſolemnities were a "kind of deed, whereby the right of dominion is given: which ſtrange, "untrue, and unnatural conceits are ſet abroad by ſeedſmen of rebellion." And a little farther, "unleſs we will openly proclaim defiance unto all "law, equity, and reaſon, we muſt (there is no remedy) acknowledge, "that in kingdoms hereditary, birth giveth a right unto ſovereign do-"minion, &c. Thoſe ſolemnities do either ſerve for an open teſtification "of the inheritor's right, or belong to the form of inducting him into "poſſeſſion *." Theſe are bold cenſures, and do not only reach Mr. Hooker, whoſe modeſty, and peaceableneſs of ſpirit, is no leſs eſteemed than his learning, but the Scriptures alſo, and the beſt of human authors, upon which he founded his opinions. But why ſhould it be thought a ſtrange, untrue, or unnatural conceit, to believe, that, when the Scriptures ſay, Nimrod was the firſt that grew powerful in the earth long before the death of his fathers, and could conſequently neither have a right of dominion over the multitude met together at Babylon, nor ſubdue them by his own ſtrength, he was ſet up by their conſent; or that they who made him their governor, might preſcribe rules, by which he ſhould govern? Nothing ſeems to me leſs ſtrange, than that a multitude of reaſonable creatures, in the performance of acts of the greateſt importance, ſhould conſider why they do them. And the infinite variety which is obſerved in the conſtitution, mixture, and regulation of governments, does not only ſhew, that the ſeveral nations of the world have conſidered them; but clearly prove, that all nations have perpetually continued in the exerciſe of that right. Nothing is more natural than to follow the voice of mankind. The wiſeſt and beſt have ever employed their ſtudies in forming kingdoms and commonwealths, or in adding to the perfections of ſuch as were already conſtituted: which had been contrary to the laws of God and nature, if a general rule had been ſet, which had obliged all to be for ever ſubject to the will of one; and they had not been the beſt, but the worſt of men who had departed from it. Nay, I may ſay, that the law given by God to his peculiar people, and the commands delivered by his ſervants in order to it, or the proſecution of it, had been contrary to his own eternal and univerſal law; which is impoſſible. A law therefore having been given by God, which had no relation to, or conſiſtency with the abſolute paternal power; judges and kings created, who had no pretence to any preference before their brethren, till they were created,

* Theſe are Hooker's words, which Sidney has miſtaken for Filmer's. Perhaps he would not have objected to the doctrine they contain, if he had obſerved, that the author ſpeaks of kingdoms, which are "hereditary" by the conſent of the people; allowing, "that even kings, even inheritors, do hold their right in the power of dominion, with "dependency upon the whole body politic, over which they have rule as kings." Eccl. Polit. b. 8, ch. 2

CHAP. II and commanded not to raiſe their hearts above them, when they ſhould be created; the wiſdom and virtue of the beſt men, in all ages, ſhewn in the conſtitution or reformation of governments; and nations, in variouſly framing them, preſerving the poſſeſſion of their natural right, to be governed by none, and in no other way than they ſhould appoint; the opinions of Hooker, that all public regiment, of what kind ſoever, ariſes from the deliberate advice of men ſeeking their own good, and that all other is mere tyranny, are not "untrue and unnatural conceits ſet abroad "by the ſeedſmen of rebellion;" but real truths grounded upon the laws of God and nature, acknowledged and practiſed by mankind. And no nation being juſtly ſubject to any, but ſuch as they ſet up, nor in any other manner than according to ſuch laws as they ordain, the right of chooſing and making thoſe, that are to govern them, muſt wholly depend upon their will.

SECTION VII.

THE LAWS OF EVERY NATION ARE THE MEASURE OF MAGISTRATICAL POWER.

Our author lays much weight upon the word hereditary; but the queſtion is, what is inherited in an hereditary kingdom, and how it comes to be hereditary? It is in vain to ſay, "the kingdom;" for we do not know what he means by the kingdom: it is one thing in one place, and very different in others; and I think it not eaſy to find two in the world that in power are exactly the ſame. If he underſtands all that is comprehended within the precincts over which it reaches, I deny that any ſuch is to be found in the world. If he refers to what preceeding kings enjoyed, no determination can be made, till the firſt original of that kingdom be examined, that it may be known what that firſt king had, and from whence he had it.

If this variety be denied, I deſire to know whether the kings of Sparta and Perſia had the ſame power over their ſubjects? if the ſame, whether both were abſolute, or both limited? if limited, how came the decrees of the Perſian kings to paſs for laws? if abſolute, how could the Spartan kings be ſubject to fines, impriſonment, or the ſentence of death; and not have power to ſend for their own ſupper out of the common hall? Why did Xenophon call Ageſilaus a good and faithful king, obedient to the laws of his country *, when, upon the command of the Ephori, he left the war that he had with ſo much glory begun in Aſia, if he was ſubject to none? How came the Ephori to be eſtabliſhed to reſtrain the

* Επειθετο τῃ πολει· μαλα ενδηλον ποιων, ὡς ουτε αν πασαν την γην δεξαιτο αντι πατριδος. ουτε αισχρα και ακινδυνα κερδη μαλλον, η ματα κινδυνων τα καλα και δικαια. Xenop. Orat. de Ageſil.

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power of kings, if it could no way be reſtrained, if all owed obedience to them, and they to none? Why did Theopompus's wife reprove him for ſuffering his power to be diminiſhed by their creation, if it could not be diminiſhed? Or why did he ſay, he had made the power more permanent in making it leſs odious, if it was perpetual and unalterable *? We may go farther, and taking Xenophon and Plutarch for our guides, aſſert, that the kings of Sparta never had the powers of war or peace, life and death, which our author eſteems inſeparable from regality, and conclude, either that no king has them, or that all kings are not alike in power. If they are not in all places the ſame, kings do not reign by an univerſal law, but by the particular laws of each country; which give to every one ſo much power, as in the opinion of the givers conduces to the end of their inſtitution, which is the public good. SECT. 7

It may be alſo worth our inquiry how this inherited power came to be hereditary. We know that the ſons of Veſpaſian and Conſtantine inherited the Roman empire, though their fathers had no ſuch title; but, having gained the empire by violence, which Hooker ſays is mere tyranny, that can create no right, they could devolve none to their children. The kings of France of the three races have inherited the crown; but Meroveus, Pepin, and Hugh Capet, could neither pretend title nor conqueſt, nor any other right than what was conferred upon them by the clergy, nobility, and people; and conſequently whatever is inherited from them can have no other original; for that is the gift of the people which is beſtowed upon the firſt, under whom the ſucceſſors claim, as if it had been by a peculiar act given to every one of them. It will be harder to ſhew, how the crown of England is become hereditary, unleſs it be by the will of the people; for though I ſhould grant, that ſome of the Saxon kings came in by inheritance (which I do not, having, as I think, proved them to have been abſolutely elective) yet William the Norman did not, for he was a baſtard, and could inherit nothing. William Rufus and Henry did not; for their elder brother Robert, by right of inheritance, ought to have been preferred before them. Stephen, and Henry the ſecond did not; for Maud the only heireſs of Henry the firſt was living when both were crowned. Richard, and John, did not, for they were baſtards born in adultery. They muſt therefore have received their right from the people, or they could have none at all; and their ſucceſſors fall under the ſame condition.

Moreover, I find great variety in the deduction of this hereditary right. In Sparta there were two kings of different families, endowed with an equal power. If the Heraclidae did reign as fathers of the people, the Aeacidae did not; if the right was in the Aeacidae, the Heraclidae could have none; for it is equally impoſſible to have two fathers as two thou-

* Ὃν [Θεοπομπον] και φασιν, ὑπο της ἑαυτῶ γυναικος ονειδιζομενον ὡς ελαττω παραδωσοντα τοις παισι την βασιλειαν η παρελαβε, μειζω μεν ουν (ειπειν) ὁσῳ χρονιωτεραν. Plutar. in vitâ Lycurg.

CHAP. II

ſand. It is in vain to ſay, that two families joined, and agreed to reign jointly: for it is evident the Spartans had kings before the time of Hercules or Achilles, who were the fathers of the two races. If it be ſaid, that the regal power, with which they were inveſted, did intitle them to the right of fathers, it muſt in like manner have belonged to the Roman conſuls, military tribunes, dictators, and pretors; for they had more power than the Spartan kings; and that glorious nation might change their fathers every year, and multiply or diminiſh the number of them as they pleaſed. If this be moſt ridiculous and abſurd, it is certain, that the name and office of king, conſul, dictator, or the like, does not confer any determined right upon the perſon that has it: every one has a right to that which is allotted to him by the laws of the country by which he is created.

As the Perſians, Spartans, Romans, or Germans, might make ſuch magiſtrates, and under ſuch names, as beſt pleaſed themſelves, and accordingly enlarge or diminiſh their power, the ſame right belongs to all nations; and the rights due unto, as well as the duties incumbent upon every one, are to be known only by the laws of that place. This may ſeem ſtrange to thoſe who know neither books nor things, hiſtories nor laws; but is well explained by Grotius; who, denying the ſovereign power to be annexed to any name, ſpeaks of divers magiſtrates under ſeveral names that had, and others that under the ſame names had it not; and diſtinguiſhes thoſe who have the "ſummum imperium ſummo modo," from thoſe who have it "modo non ſummo*." And though probably he looked upon the firſt ſort as a thing merely ſpeculative, if by that "ſummo modo" a right of doing what one pleaſes be underſtood, yet he gives many examples of the other; and among thoſe who had "liberrimum imperium," if any had it, he names the kings of the Sabeans; who nevertheleſs were under ſuch a condition, that though they were, as Agatharchides reports, obeyed in all things, whilſt they continued within the walls of their palace, might be ſtoned by any that met them without it†. He finds alſo another obſtacle to the abſolute power, "cum rex "partem habeat ſummi imperii, partem ſenatus, ſive populus;" which parts are proportioned according to the laws of each kingdom, whether hereditary or elective, both being equally regulated by them.

The law, that gives and meaſures the power, preſcribes rules how it ſhould be tranſmitted. In ſome places the ſupreme magiſtrates are annu-

* Grot. de Jure Belli, l. 1, c. 3, § 16

† Quid ſi addatur, ſi rex fidem fallat, ut tum regno cadat? ne ſic quidem imperium deſinet eſſe ſummum, ſed erit habendi modus imminutus per conditionem, & imperium temporario non abſimile. De Sabaeorum rege narrabat Agatharchides fuiſſe ἀνυπεύθυνον liberrimâ poteſtate praeditum, ſed ſi regiâ exiret potuiſſe lapidari. Grot. ib.

Ὁ δε βασιλευων τε παντος ἐθνες, προεδριαν εχει παρα τε λαε, τη μεν εντιμον, τη δε ακληροτατην· εντιμον μεν, ὁτι πολλοις επιτατ͂ει, κατα κρισιν ανυπευθυνον ὁ βελεται πρατ͂ων· ακληρον δε, ὁτι παραλαβων την επιμελειαν, ε δυναται παλιν εκ των βασιλειων εξελθειν· ει δε μη, λιθολευστος ὑπο παντων γινεται κατα χρησμον αρχαιον. Phot. Bibl. ex Agatharchide. c. 50, p. 1374.

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ally elected, in others their power is for life; in ſome they are merely elective, in others hereditary, under certain rules or limitations. The antient kingdoms and lordſhips of Spain were hereditary; but the ſucceſſion went ordinarily to the eldeſt of the reigning family, not to the neareſt in blood. This was the ground of the quarrel between Corbis the brother, and Orſua the ſon of the laſt prince, decided by combat before Scipio *. I know not whether the Goths brought that cuſtom with them when they conquered Spain, or whether they learned it from the inhabitants; but certain it is, that, keeping themſelves to the families of the Balthi and Amali †, they had more regard to age than proximity; and almoſt ever preferred the brother, or eldeſt kinſman of the laſt king before his ſon. The like cuſtom was in uſe among the Moors in Spain and Africa, who, according to the ſeveral changes that happened among the families of Almoravides, Almohedes, and Benimerini ‡, did always take one of the reigning blood; but in the choice of him had moſt reſpect to age and capacity. This is uſually called the law of thaneſtry; and, as in many other places, prevailed alſo in Ireland, till that country fell under the *Engliſh government*. SECT. 7

In France and Turky, the male that is neareſt in blood, ſucceeds. And I do not know of any deviation from that rule in France, ſince Henry the firſt was preferred before Robert his elder brother, grandchild to Hugh Capet. But, notwithſtanding the great veneration they have for the royal blood, they utterly exclude females, leſt the crown ſhould fall to a ſtranger; or a woman, that is ſeldom able to govern herſelf, ſhould come to govern ſo great a people. Some nations admit females, either ſimply, as well as males; or under a condition of not marrying out of their country, or without the conſent of the eſtates, with an abſolute excluſion of them, and their children, if they do. According to which law, now in force among the Swedes, Charles Guſtavus was choſen king, upon the reſignation of queen Chriſtina, as having no title; and the crown ſettled upon the heirs of his body, to the utter excluſion of his brother Adolphus, their mother having married a German. Though divers nations have differently diſpoſed their affairs, all thoſe that are not naturally ſlaves, and like to beaſts, have preferred their own good before the perſonal intereſts of him that expects the crown, ſo as upon no pretence whatever to admit of one, who is evidently guilty of ſuch vices as are prejudicial to the ſtate. For this reaſon the French, though much addicted to their

* See p. 46

† The Viſigoths were governed by princes of the race of the Balthi; the Oſtrogoths by princes of the houſe of the Amali.—— Veſegothae familiae Balthorum, Oſtrogothae praeclaris Amalis ſerviebant. Jornand. De Reb. Getic. c. 5. Vide Saaved. Coron. Gothic.

‡ The family of the Almoravides, having diſpoſſeſſed the Alavecines, who were deſcended from Fatima the daughter of Mahommed, uſurped the government of Africa, about the year 1052. In the following century the Almoravides were extirpated by the Almohedes; who, having made a conſiderable figure in the kingdom of Fez, and other parts, during the ſpace of about 120 years, were dethroned, and ſucceeded by the family of the Benimerini. Marian. De Reb. Hiſp. l. 11, c. 1. et l. 13, c. 7.

kings,

CHAP. II kings, rejected the vile remainders of Meroveus's race, and made Pepin the ſon of Charles Martel king. And when his deſcendents fell into the like vices, they were often depoſed, till at laſt they were wholly rejected, and the crown given to Capet, and to his heirs male, as formerly. Yet for all this, Henry his grandchild, being eſteemed more fit to govern, than his elder brother Robert, was, as is ſaid before, made king; and that crown ſtill remains in his deſcendents, no conſideration being had of the children of Robert, who continued dukes of Burgundy during the reigns of ten kings. And, in the memory of our fathers, Henry of Navarre was rejected by two aſſemblies of the eſtates, becauſe he differed in religion from the body of the nation, and could never be received as king, till he had renounced his own; though he was certainly the next in blood, and, in all other reſpects, excelled in thoſe virtues which they moſt eſteem.

We have already proved, that our own hiſtory is full of the like examples; and might enumerate a multitude of others, if it were not too tedious. And as the various rules, according to which all the hereditary crowns of the world are inherited, ſhew, that none is ſet by nature, but that every people proceeds according to their own will, the frequent deviations from thoſe rules do evidently teſtify, that "ſalus populi eſt lex ſuprema;" and that no crown is granted otherwiſe, than in ſubmiſſion to it.

But though there were a rule, which in no caſe ought to be tranſgreſſed, there muſt be a power of judging to whom it ought to be applied. It is perhaps hard to conceive one more preciſe than that of France, where the eldeſt legitimate male in the direct line is preferred; and yet that alone is not ſufficient. There may be baſtardy in the caſe: baſtards may be thought legitimate, and legitimate ſons baſtards. The children born of Iſabel of Portugal, during her marriage with John the third of Caſtile, were declared baſtards; and the title of the houſe of Auſtria to that crown depends upon that declaration. We often ſee, that marriages which have been contracted, and for a long time taken to be good, have been declared null. And the legitimation of the preſent king of France is founded ſolely upon the abolition of the marriage of Henry the fourth with Margaret of Valois, which for the ſpace of twenty ſeven years was thought to have been good. While Spain was divided into five or ſix kingdoms, and the ſeveral kings were linked to each other by mutual alliances, inceſtuous marriages were often contracted, and upon better conſideration annulled: many have been utterly void, through the pre-engagement of one of the parties. Theſe are not feigned caſes, but ſuch as happen frequently. And the diverſity of accidents, as well as the humours of men, may produce many others, which would involve nations in the moſt fatal diſorders, if every one ſhould think himſelf obliged to follow ſuch a one who pretended a title, that to him might ſeem plauſible, when another ſhould ſet up one as pleaſing to others, and there were no power, to terminate thoſe diſputes, to which both muſt ſubmit, but the deciſion muſt be left to the ſword.

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This is that which I call the application of the rule, when it is as plain and certain as human wiſdom can make it; but if it be left more at large, as where females inherit, the difficulties are inextricable. And he that ſays, the next heir is really king, when one is dead, before he be ſo declared by a power that may judge of his title, does, as far as in him lies, expoſe nations to be ſplit into the moſt deſperate factions, and every man to fight for the title which he fancies to be good till he deſtroy thoſe of the contrary party, or be deſtroyed by them. This is the bleſſed way propoſed by our author to prevent ſedition: but, God be thanked, our anceſtors found a better. They did not look upon Robert the Norman as king of England after the death of his father. And when he did proudly endeavour, on pretence of inheritance, to impoſe himſelf upon the nation, that thought fit to prefer his younger brothers before him, he paid the penalty of his folly, by the loſs of his eyes and liberty. The French did not think the grandchild of Pharamond to be king after the death of his father, nor ſeek who was the next heir of the Merovingian line, when Childeric the third was dead; nor regard the title of Charles of Lorrain after the death of his brother Lotharius, or of Robert of Burgundy eldeſt ſon of king Robert; but advanced Meroveus, Pepin, Capet, and Henry the firſt, who had no other right than what the nobility and people beſtowed upon them. And if ſuch acts do not deſtroy the pretences of all who lay claim to crowns by inheritance, and do not create a right, I think it will be hard to find a lawful king in the world, or that there ever have been any; ſince the firſt did plainly come in like Nimrod; and thoſe who have been every where, ſince hiſtories are known to us, owed their exaltation to the conſent of nations, armed or unarmed, by the depoſition or excluſion of the heirs of ſuch as had reigned before them. SECT. 7

Our author, not troubling himſelf with theſe things, or any other relating to the matter in queſtion, is pleaſed to ſlight Hooker's opinions concerning coronation and inauguration, with "the heaps of Scripture" upon which he grounds them. Whereas thoſe ſolemnities would not only have been fooliſh and impertinent, but profane and impious, if they were not deeds by which the right of dominion is really conferred. What could be more wickedly ſuperſtitious, than to call all Iſrael together before the Lord, and to caſt lots upon every tribe, family, and perſon, for the election of a king, if it had been known to whom the crown did belong by a natural and unalterable right? or if there had been ſuch a thing in nature, how could God have cauſed that lot to fall upon one of the youngeſt tribe, for ever to diſcountenance his own law, and divert nations from taking any notice of it? It had been abſurd for the tribe of Judah to chooſe and anoint David, and for the other tribes to follow their example after the death of Iſhboſheth, if he had been king by a right not depending on their will. David did worſe in ſlaying the ſons of Rimmon, ſaying, they had killed a righteous man lying on his bed, if Iſhboſheth, whoſe head they preſented, had moſt unrighteouſly detained from him, as long as he lived, the dominion of the ten tribes: the king, elders, and people, had moſt

CHAP. II moſt ſcornfully abuſed the moſt ſacred things, by uſing ſuch ceremonies in making him king, and completing their work in a covenant made between him and them before the Lord, if he had been already king, and if thoſe acts had been empty ceremonies conferring no right at all.

I dare not ſay, that a league does imply an abſolute equality between both parties; for there is a "foedus inaequale," wherein the weaker, as Grotius ſays, does uſually obtain protection, and the ſtronger honour *; but there can be none at all, unleſs both parties are equally free to make it, or not to make it. David therefore was not king, till he was elected, and thoſe covenants made; and he was made king by that election and covenants.

This is not ſhaken by our author's ſuppoſition, "that the people would "not have taken Joaſh, Manaſſeh, or Joſiah, if they had had a right of "chooſing a king; ſince Solomon ſays, wo to the land whoſe king is a "child." For they who at the firſt had a right of chooſing whom they pleaſed to be king, by the covenant made with him whom they did chooſe, may have deprived themſelves of the farther execution of it, and rendered the crown hereditary even to children, unleſs the conditions are violated upon which it was granted. In the ſecond place, if the infancy of a king brings wo upon a people, the government of ſuch a one cannot be according to the laws of God and nature; for governments are not inſtituted by either for the pleaſure of a man, but for the good of nations; and their weal, not their wo, is ſought by both. And if children are any where admitted to rule, it is by the particular law of the place, grounded perhaps upon an opinion, that it is the beſt way to prevent dangerous conteſts; or that other ways may be found to prevent the inconveniences that may proceed from their weakneſs. Thirdly, it cannot be concluded, that they might not reject children, becauſe they did not; ſuch matters require poſitive proofs; ſuppoſitions are of no value in relation to them, and the whole matter may be altered by particular circumſtances. The Jews might reaſonably have a great veneration for the houſe of David. They knew what was promiſed to that family; and whatever reſpect was paid, or privilege granted, on that account, can be of no advantage to any other in the world. They might be farther induced to ſet up Joaſh, in hope the defects of his age might be ſupplied by the virtue, experience and wiſdom of Jehoiada. We do not know what good opinion may have been conceived of Manaſſeh when he was twelve years old; but much might be hoped from one that had been virtuouſly educated, and was probably under the care of ſuch as had been choſen by Hezekiah. And though the contrary did fall out, the miſchiefs brought upon the people, by his wicked reign, proceeded not from the weakneſs of his childhood, but from the malice of his riper years. And both the exam-

* Rectè Andronicus Rhodius, poſt Ariſtotelem, amicitiae inter diſpares hoc ait proprium, ut potentiori plus honoris, infirmiori plus auxilii deferatur. Grot. de Jure Belli, l. 1, c. 3, §. 21

ples of Joash and Josiah prove, that neither of them came in by their own right, but by the choice of the people. "Jehoiada gathered the Levites "out of all the cities of Judah, and the chief of the fathers of Israel, and "they came to Jerusalem. And all the congregation made a covenant "with the king in the house of God, and brought out the king's son, "and put upon him the crown, and gave him the testimony, and made "him king †:" whereupon they slew Athaliah. And when Amon was slain, "the people of the land slew them that had conspired against him, "and made Josiah his son king in his stead ‡:" which had been most impertinent, if he was of himself king before they made him so. Besides, though infancy may be a just cause of excepting against, and rejecting the next heir to a crown, it is not the greatest or strongest. It is far more easy to find a remedy against the folly of a child, if the state be well regulated, than the more rooted vices of grown men. The English, who willingly received Henry the sixth, Edward the fifth and sixth, though children, resolutely opposed Robert the Norman. And the French, who willingly submitted to Charles the ninth, Lewis the thirteenth and fourteenth, in their infancy, rejected the lewd remainders of Meroveus's race, Charles of Lorrain, with his kindred, descended from Pepin, Robert duke of Burgundy with his descendants, and Henry of Navarre, till he had satisfied the nobility and people in the point of religion. And though I do not know that the letter upon the words, "Vae regno cujus rex puer est," recited by Lambard, was written by Eleutherius bishop of Rome; yet the authority given to it by the Saxons, who made it a law, is much more to be valued than what it could receive from the writer. And whoever he was, he seems rightly to have understood Solomon's meaning, who did not look upon him as a child that wanted years, or was superannuated, but him only who was guilty of insolence, luxury, folly, and madness *. And he that said, "a wise child was better than an old and foolish king," could have no other meaning, unless he should say, it was worse to be governed by a wise person than a fool: which may agree with the judgment of our author, but could never enter into the heart of Solomon. SECT. 7.

Lastly, though the practice of one or more nations may indicate what laws, covenants, or customs, were in force among them, yet they cannot

† 2 Chron. ch. 23, v. 2, 3, 11 ‡ 2 Chron. ch. 33, v. 25

* Anno 169 à passione Christi, dominus Eleutherius papa, Lucio regi Britanniae scripsit, ad petitionem regis, et procerum regni Britanniae. "Petistis à nobis, &c. . . . . Vae rego "no, cujus rex puer est, et cujus principes manè comedunt. Non voco regem puerum, "propter parvam et nimiam aetatem, sed propter stultitiam, et iniquitatem, et insanitatem, "juxta prophetam regem: viri sanguinum, et dolosi non dimidiabunt dies suos. Per "comestionem intelligimus gulam, per gulam luxuriam, per luxuriam omnia turpia et "mala, juxta Solomonem regem. In malevolam animam non introibit sapientia, nec ha"bitabit in corpore subdito peccatis. Rex dicitur à regendo, non à regno. Rex eris, dum "benè regis; quod nisi feceris, nomen regis in te non constabit, et nomen regis perdes; "quod absit. Det vobis omnipotens Deus regnum Britanniae sic regere, ut possitis cum eo "regnare in aeternum, cujus vicarius estis in regno praedicto." This letter is quoted under the article, De Regis Officio, among the laws of Edward the Confessor. See Lamb. de Angl. Leg. p. 142.—Spelm. Concil. vol. 1, p. 34. Alfordi Annal. Eccl. Brit. Ann. Chr. 183

CHAP. II bind others. The diverſity of them proceeds from the variety of mens judgments, and implies that the direction of all ſuch affairs depends upon their own will. According to which every people for themſelves forms and meaſures the magiſtracy, and magiſtratical power; which, as it is directed ſolely for the good, has its exerciſes and extent proportionable to the command of thoſe that inſtitute it: and ſuch ordinances being good for men, God makes them his own.

SECTION VIII

THERE IS NO NATURAL PROPENSITY IN MAN OR BEAST TO MONARCHY.

I ſee no reaſon to believe, "that God did approve the government of one "over many, becauſe he created but one;" but on the contrary, inaſmuch as he did endow him, and thoſe that came from him, as well the youngeſt as the eldeſt line, with underſtanding to provide for themſelves, and by the invention of arts and ſciences, to be beneficial to each other, he ſhewed, that they ought to make uſe of that underſtanding in forming governments, according to their own convenience, and ſuch occaſions as ſhould ariſe, as well as in other matters. And it might as well be inferred, that it is unlawful for us to build, clothe, arm, defend, or nouriſh ourſelves, otherwiſe than as our firſt parents did, before or ſoon after the flood, as to take from us the liberty of inſtituting governments that were not known to them. If they did not find out all that conduces to the uſe of man, but a faculty as well as a liberty was left to every one, and will be to the end of the world, to make uſe of his wit, induſtry, and experience, according to preſent exigencies, to invent and practiſe ſuch things as ſeem convenient to himſelf and others in matters of the leaſt importance, it were abſurd to imagine, that the political ſcience, which of all others is the moſt abſtruſe and variable according to accidents and circumſtances, ſhould have been perfectly known to them who had no uſe of it; and that their deſcendents are obliged to add nothing to what they practiſed. But the reaſon given by our author to prove this extravagant fancy, is yet more ridiculous than the thing itſelf: "God," ſays he, "ſhewed his opi-"nion," that all ſhould be governed by one, "when he endowed not "only men, but beaſts, with a natural propenſity to monarchy: neither "can it be doubted, but that a natural propenſity is to be referred to God, "who is the author of nature:" which I ſuppoſe may appear if it be conſidered.

Nevertheleſs I cannot but commend him in the firſt place for introducing God ſpeaking ſo modeſtly, not declaring his will, but his opinion. He puts haughty and majeſtic language into the mouth of kings. They command and decide, as if they were ſubject to no error, and their wills ought to be taken for perpetual laws; but to God he aſcribes an humble delivery of his opinion only, as if he feared to be miſtaken. In the ſecond place,

I deny

I deny that there is any ſuch general propenſity in man or beaſt, or that monarchy would thereby be juſtified, though it were found in them. It cannot be in beaſts, for they know not what government is; and being incapable of it, cannot diſtinguiſh the ſeveral ſorts, nor conſequently incline to one more than another. Salmaſius's ſtory of bees is only fit for old women to prate of in chimney corners *. And they who repreſent lions and eagles as kings of birds and beaſts, do it only to ſhew, that their power is nothing but brutiſh violence, exerciſed in the deſtruction of all that are not able to oppoſe it, and that has nothing of goodneſs or juſtice in it: which ſimilitude (though it ſhould prove to be in all reſpects adequate to the matter in queſtion) could only ſhew, that thoſe who have no ſenſe of right, reaſon, or religion, have a natural propenſity to make uſe of their ſtrength, to the deſtruction of ſuch as are weaker than they; and not that any are willing to ſubmit, or not to reſiſt it if they can: which I think will be of no great advantage to monarchy. But whatever propenſity may be in beaſts, it cannot be attributed generally to men; for if it were, they never could have deviated from it, unleſs they were violently put out of their natural courſe; which in this caſe cannot be; for there is no power to force them. But that they have moſt frequently deviated, appears by the various forms of government eſtabliſhed by them. There is therefore no natural propenſity to any one; but they chooſe that, which in their judgment ſeems beſt for them. Or, if he would have that inconſiderate impulſe, by which brutiſh and ignorant men may be ſwayed, when they know no better, to paſs for a propenſity, others are no more obliged to follow it, than to live upon acorns, or inhabit hollow trees, becauſe their fathers did it, when they had no better dwellings, and found no better nouriſhment in the uncultivated world. And he that exhibits ſuch examples, as far as in him lies, endeavours to take from us the uſe of reaſon, and extinguiſhing the light of it, to make us live like the worſt of beaſts, that we may be fit ſubjects to abſolute monarchy. This may perhaps be our author's intention, having learned from Ariſtotle, that ſuch a government is only ſuitable to the nature of the moſt beſtial men, who being incapable of governing themſelves, fall under the power of ſuch as will take the conduct of them. But he ought withal to have remembred, that, according to Ariſtotle's opinion, this conductor muſt be in nature different from thoſe he takes the charge of: and if he be not

SECT. 8

* Sidney ſeems to allude to the following paſſage: — Animalia ipſa, quae eandem habent cum homine naturam, ſocietate et congregatione gaudentem, ut aves quae gregatim volitant, paſcuntur & ſtabulantur, plerumque ab uno duce et rege diriguntur. Apes regem habent. Coturnices ſub ortygometrâ duce trans mare abeunt, et inde ad nos redeunt. Taurus eſt unus quem tota ſequuntur armenta. Dux gregis caper eſt. Arietes ſinguli ovium gregem ducunt. Inter aves cohortales gallus gallinaceus, qui reliquis fortior eſt ac pugnacior, tam maribus quam feminis imperitat, eaſque congregat, & congregatis praeeſt. . . . . Quod ait poeta de apibus, id de univerſo hominum genere, qui à regibus gubernatur, dici debet.

—— Rege incolumi mens omnibus una;
Amiſſo, rupêre fidem. ——— Salm. Defens. Reg. c. 5, p. 84

CHAP. II there can be no government, nor order by which it ſubſiſts: beaſts follow beaſts, and the blind lead the blind to deſtruction.

But though I ſhould grant this propenſity to be general, it could not be imputed to God, ſince man by ſin is fallen from the law of his creation. "The wickedneſs of man, even in the firſt ages, was great in the world. "All the imaginations of his heart are evil, and that continually. All "men are liars. There is none that doth good, no not one. Out of the "heart proceed evil thoughts, murders, adulteries, fornication, thefts, "falſe teſtimonies," &c. Theſe are the fruits of our corrupted nature; which the apoſtle obſerving does not only make a difference between the natural and the ſpiritual man, whoſe proceeding only can be referred to God, and that only ſo far as he is guided by his Spirit, but ſhews, that the natural man is in a perpetual enmity againſt God, without any poſſibility of being reconciled to him, unleſs by the deſtruction of the old man, and the regenerating or renewing him through the ſpirit of grace. There being no footſteps of this in our author's book, he and his maſter Heylin may have differed from the apoſtle, referring that propenſity of nature to God, which he declares to be utter enmity againſt him; and we may conclude, that this propenſity, however general it may be, cannot be attributed to God as the author of nature, ſince it cannot be more general than the corruptions into which we are fallen.

SECTION IX

THE GOVERNMENT INSTITUTED BY GOD OVER THE ISRAELITES WAS ARISTOCRATICAL.

Notwithſtanding all this, our author is reſolved that monarchy muſt be from God. "What form of government, ſays he, God ordained by his "authority, may be gathered by that commonwealth which he inſtituted "amongſt the Hebrews; which was not ariſtocratical, as Calvin ſaith, "but plainly monarchical." I may in as few words deny the government ſet up by God to have been monarchical, as he aſſerts it; but finding ſuch language ordinarily to proceed from a mixture of folly, impudence, and pride, I chooſe rather to ſhew upon what I ground my opinions, than nakedly to deliver them; eſpecially, when, by inſiſting upon the government inſtituted by God over his people, he refers us to the Scripture. And I do this the more boldly, ſince I follow Calvin's expoſition; and believe that he, having been highly eſteemed for his wit, judgment, and learning, by ſuch as were endowed with the like, and reverenced as a glorious ſervant of God, might, if he were now alive, comfort himſelf, though he had the misfortune to fall under the cenſures of Filmer and his followers. It is probable he gave ſome reaſons for his opinions; but our author, having maliciouſly concealed them, and I, not having

ing leiſure at preſent to examine all his writings to find them, muſt con- SECT. 9
tent myſelf with ſuch as my ſmall underſtanding may ſuggeſt, and ſuch as I have found in approved authors.

In the firſt place I may ſafely ſay, he was not alone of that opinion: Joſephus, Philo, and Moſes Maimonides, with all the beſt of the Jewiſh and Chriſtian authors, had long before delivered the ſame. Joſephus ſays, that Saul's firſt ſin, by which he fell, was, "that he took away the ariſ-"tocracy;" which he could not do, if it had never been eſtabliſhed *. Philo imputes the inſtitution of kingly government, as it was in Iſrael, neither to God, nor his word, but to the fury of the ſinful people. Abarbenel ſays, it proceeded from their delight in the idolatry, to which their neighbours were addicted, and which could be upheld only by a government, in practice and principle contrary to that which God had inſtituted. Maimonides frequently ſays the ſame thing, grounded upon the words of Hoſea, "I gave them kings in my wrath." And whoever will call that a divine inſtitution, may give the ſame name to plagues or famines, and induce a neceſſity incumbent upon all men to go and ſearch the one where they may find it; and to leave their lands for ever uncultivated, that they may be ſure of the other; which being too beſtial to be aſſerted by a man, I may ſafely ſay, the Hebrew kings were not inſtituted by God, but given as a puniſhment of their ſin, who deſpiſed the government that he had inſtituted. And the above-mentioned authors agree in the ſame thing, calling the people's deſire to have a king, furious, mad, wicked, and proceeding from their love to the idolatry of their neighbours, which was ſuited to their government; both which were inconſiſtent with what God had eſtabliſhed over his own people.

But waving the opinions of men, it is good to ſee what we can learn from the Scripture, and inquire if there be any precept there expreſly commanding them to make a king; or any example that they did ſo, whilſt they continued obedient to the word of God; or any thing from whence we may reaſonably infer, they ought to have done it: all which, if I miſtake not, will be found directly contrary.

* Joſephus makes Moſes, in his addreſs to the people, a little before his death, deliver the following ſentiment concerning ariſtocratical government: Αριστοκρατια μεν ουν κρατιστον, και ὁ κατ' αυτην βιος· και μη λαβοι ποθος ὑμας αλλης πολιτειας, αλλα ταυτην σεργοιτε, τους νομους εχοντες δεσποτας, και κατ' αυτους ἑκαστα πραττοντες· αρκει γαρ ὁ Θεος ἡγεμων ειναι. Antiq. Jud. l. 4, c. 8, § 17

When he ſpeaks of the Iſraelites demanding a king, he ſays: Ελυπησαν δε σφοδρα τον Σαμουηλον οἱ λογοι, δια την συμφυτον δικαιοσυνην, και το προς τους βασιλεας μισος· ἡπλητο γαρ δεινως της αριστοκρατειας, ὡς θειας και μακαριας ποιουσης τους χρωμενους αυτης τη πολιτειᾳ. Ibid. l. 6, c. 3, § 3

Samuel, according to the ſame author, in his ſpeech to the people on this occaſion, ſays: Τις ουν εσχεν ὑμας ανοια, φυγειν μεν τον Θεον, ὑπο βασιλεα δε ειναι θελειν; αλλ' εγω μεν απεδειξα τουτον ὁν αυτος επελεξατο· ἱνα μεν τοιγε φανερον ὑμιν ποιησω τον Θεον οργιζομενον και δυσχεραινοντα τη της βασιλειας ὑμων αἱρεσει, δηλωσαι τουθ' ὑμιν τον Θεον παρασκευασω δια σημειων εναργως. Ibid. l. 6, c. 5, § 6

It were to be wiſhed, that our author had informed us, where he found the paſſages in Joſephus, Philo, &c. to which he alludes in this place

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CHAP. II

The only precept that we find in the law concerning kings, is that of Deuteronomy xvii. already mentioned; and that is not a command to the people to make, but inſtructions what manner of king they ſhould make, if they deſired to have one: there was therefore none at all.

Examples do as little favour our author's aſſertions. Moſes, Joſhua, and the other judges, had not the name or power of kings. They were not of the tribe to which the ſceptre was promiſed: they did not tranſmit the power they had to their children, which, in our adverſary's opinion, is a right inſeparable from kings; and their power was not continued by any kind of ſucceſſion, but created occaſionally, as need required, according to the virtues diſcovered in thoſe, who were raiſed by God to deliver the nation in the time of their diſtreſs; which being done, their children lay hid among the reſt of the people. Thus were Ehud, Gideon, Jephthah, and others, ſet up. "Whoever will give battle," ſay the princes and people of Gilead, "to the children of Ammon, ſhall be head over the in-"habitants of Gilead*." And, finding Jephthah to be ſuch a man as they ſought, they made him their chief, and all Iſrael followed them. When Othniel had ſhewed his valour in taking Kirjath-ſepher, and delivering his brethren from Cuſhan-riſhathaim, he was made judge. When Ehud had killed Eglon; when Shamgar and Samſon had deſtroyed great numbers of the Philiſtines; and when Gideon had defeated the Midianites, they were fit to be advanced above their brethren. Theſe dignities were not inherent in their perſons, or families, but conferred upon them; nor conferred, that they might be exalted in riches and glory, but that they might be miniſters of good to the people. This may juſtify Plato's opinion, that if one man be found incomparably to excel all others in the virtues that are beneficial to civil ſocieties, he ought to be advanced above all. But I think it will be hard from thence to deduce an argument in favour of ſuch a monarchy as is neceſſarily to deſcend to the next in blood, whether man, woman, or child, without any conſideration of virtue, age, ſex, or ability: and that failing, it can be of no uſe to our author. But whatever the dignity of a Hebrew judge was, and however he was raiſed to that office, it certainly differed from that of a king. Gideon could not have refuſed to be a king when the people would have made him ſo, if he had been a king already; or if God from the beginning had appointed that they ſhould have one. The elders and people could not have aſked a king of Samuel, if he had been king; and he could not, without impiety, have been diſpleaſed with them for aſking for ſuch a one as God had appointed; neither would God have ſaid to him, "they have not rejected thee, but "they have rejected me, that I ſhould not reign over them," if he had ordained what they deſired.

They did not indeed reject God with their mouths: they pretended to uſe the liberty he had given them to make a king; but would have ſuch a one as he had forbidden. They drew near to him with their lips, but

* Judg. ch. 10, v. 18

their

their hearts were far from him. And he, ſeeing their hypocriſy, ſeverely chaſtiſed them in granting their ill-conceived requeſt; and foretold the miſeries that ſhould thereupon befal them; from which he would not deliver them, though they ſhould cry to him by reaſon of what they ſuffered from their king: he was their creature, and the miſchiefs thereby brought upon them were the fruits of their own labour. SECT. 9.

This is that which our author calls God's inſtitution of kings; but the prophet explains the matter much better: "I gave them kings in my "anger, and took them away in my wrath *." In deſtroying them God brought deſolation upon the people that had ſinned in aſking for them, and following their example in all kind of wickedneſs. This is all our author has to boaſt of. But God, who acknowledges thoſe works only to be his own, which proceed from his goodneſs and mercy to his people, diſowns this: "Iſrael hath caſt off the thing that is good," even the government that he had eſtabliſhed: "the enemy ſhall purſue him. They have "ſet up kings, but not by me; and princes, but I know them not †." As if he ſought to juſtify the ſeverity of his judgments brought upon them by the wickedneſs of their kings, that they, not he, had ordained.

Having ſeen what government God did not ordain, it may be ſeaſonable to examine the nature of the government which he did ordain; and we ſhall eaſily find, that it conſiſted of three parts, beſides the magiſtrates of the ſeveral tribes and cities. They had a chief magiſtrate, who was called judge or captain, as Joſhua, Gideon, and others, a council of ſeventy choſen men ‡, and the general aſſemblies of the people.

The firſt was merely occaſional, like to the dictators of Rome. And as the Romans in times of danger frequently choſe ſuch a man as was much eſteemed for valour and wiſdom, God's peculiar people had a peculiar regard to that wiſdom and valour which was accompanied with his preſence, hoping for deliverance only from him.

The ſecond is known by the name of the great ſanhedrim, which being inſtituted by Moſes, according to the command of God, continued, till they were all ſave one ſlain by Herod. And the third part, which is the aſſembly of the people, was ſo common, that none can be ignorant of it, but ſuch as never looked into the Scripture. When the tribes of Reuben, Gad, and half that of Manaſſeh, had built an altar by the ſide of Jordan, "the whole congregation of the children of Iſrael gathered together at "Shiloh to go up to war againſt them, and ſent Phineas the ſon of Elea-"zer, and with him ten princes §." This was the higheſt and moſt important action that could concern a people, even war or peace, and that not with ſtrangers, but their own brethren. Joſhua was then alive; the elders never failed: but this was not tranſacted by him or them, but by the collected body of the people; "for they ſent Phineas." This democratical embaſſy was democratically received: it was not directed to one

* Hoſ. ch. 13, v. 11 † Hoſ. ch. 8, v. 3 ‡ Numb. ch. 11, v. 16
§ Joſh. ch. 22, v. 12

CHAP. II man, but to all the children of Reuben, Gad, and Manaſſeh, and the anſwer was ſent by them all; which being pleaſing to Phineas, and the ten that were with him, they made their report to the congregation, and all was quiet.

The laſt eminent act performed by Joſhua was the calling of a like aſſembly to Sechem, compoſed of elders, heads of families, judges, officers, and all the people, to whom he propoſed, and they agreeing made a covenant before the Lord *.

Joſhua being dead, the proceedings of every tribe were grounded upon counſels taken at ſuch aſſemblies among themſelves for their own concerns, as appears by the actions of Judah, Simeon, &c. againſt the Canaanites. And when the levite complained that his wife had been forced by thoſe of Gibeah, the whole congregation of Iſrael met together at Mizpeh from all parts, "even from Dan to Beerſheba," as one man, and there reſolved upon that terrible war which they made againſt the tribe of Benjamin. The like aſſembly was gathered together for the election of Saul; every man was there. And though the elders only are ſaid to have aſked a king of Samuel, they ſeem to have been deputed from the whole congregation; for God ſaid, "hearken to the voice of the people †." In the ſame manner the tribe of Judah, and after that the reſt, choſe and anointed David to be their king. After the death of Solomon all Iſrael met together to treat with Rehoboam; and not receiving ſatisfaction from him, ten of the tribes abrogated his kingdom.

If theſe actions were conſidered ſingly by themſelves, Calvin might have given the name of a democracy to the Hebrew government, as well as to that of Athens; for without doubt they evidently manifeſt the ſupreme power to have been in the ſupreme manner in theſe general aſſemblies. But the government, as to its outward order, conſiſting of thoſe three parts, which comprehend the three ſimple ſpecies, and no times having been appointed, nor occaſions ſpecified, upon which judges ſhould be choſen, or theſe aſſemblies called, whereas the ſanhedrim, which was the ariſtocratical part, was permanent, the whole might rightly be called an ariſtocracy, that part prevailing above the others. And though Joſephus calls it a theocracy ‡, by reaſon of God's preſence with his people, yet in relation to man he calls it an ariſtocracy, and ſays, that Saul's firſt ſin, by which he fell from the kingdom, was, that "gubernationem op-"timatum ſuſtulit;" which could not be, if they were governed by a monarch before he was choſen.

Our author, taking no notice of theſe matters, firſt endeavours to prove the excellency of monarchy from natural inſtinct; and then, begging the queſtion, ſays, that God did always govern his people by monarchy. Whereas he ought in the firſt place to have obſerved, that this inſtinct (if there be any ſuch thing) is only an irrational appetite, attributed to

* Joſh. ch. 24 † 1 Sam. ch. 8, v. 7

‡ Ὁ δ' ἡμέτερος νομοθέτης θεοκρατίαν ἀπέδειξε τὸ πολίτευμα. Contra Apion. l. 2

beaſts,

beaſts, that know not why they do any thing; and is to be followed only by thoſe men, who, being equally irrational, live in the ſame ignorance. And the ſecond being proved to be abſolutely falſe by the expreſs words of the Scripture, "there was then no king in Iſrael *," ſeveral times repeated, and the whole ſeries of the hiſtory, he has no other evaſion than to ſay, "that even then the Iſraelites were under the kingly "government of the fathers of particular families." SECT. 9

In the aſſembly of the people, gathered together to take counſel concerning the war againſt Benjamin, "were four hundred thouſand footmen that "drew ſword." They all aroſe together, ſaying, "not a man of us ſhall "go to his tent. So all the men of Iſrael were gathered together againſt the "city †." The Benjamites proceeded in the like manner in preparing for their defence; and if all theſe, who did ſo meet to "conſult" and determine, were monarchs, there were then in Iſrael and Benjamin four hundred and twenty ſix thouſand ſeven hundred monarchs or kings, though the Scriptures ſay there was not one.

If yet our author inſiſt upon his notion of kingly government, I deſire to know who were the ſubjects, if all theſe were kings; for the text ſays, that the "whole congregation was gathered together as one man from "Dan to Beerſheba." If there can be ſo many kings without one ſubject, what becomes of the right of Abraham, Iſaac, and Jacob, that was to have been devolved upon one man as heir to them, and thereby lord of all? If every man had an equal part in that inheritance, and by virtue of it became a king, why is not the ſame eternally ſubdivided to as many men as are in the world, who are alſo kings? If this be their natural condition, how comes it to be altered, till they dethrone themſelves by conſent to ſet up one or more to have a power over them all? Why ſhould they diveſt themſelves of their natural right to ſet up one above themſelves, unleſs in conſideration of their own good? If the four hundred and twenty ſix thouſand ſeven hundred kings might retain the power in themſelves, or give it to one, why might they not give it to any ſuch number of men as ſhould beſt pleaſe themſelves, or retain it in their own hands, as they did till the days of Saul; or frame, limit, and direct it, according to their own pleaſure? If this be true, God is the author of democracy; and no aſſertor of human liberty did ever claim more than the people of God did enjoy and exerciſe, at the time when our author ſays, they were under the kingly government: which liberty being not granted by any peculiar conceſſion or inſtitution, the ſame muſt belong to all mankind.

It is in vain to ſay, the four hundred and twenty ſix thouſand ſeven hundred men were heads of families; for the Scripture only ſays, "they were "footmen that drew the ſword," or rather all the men of Iſrael from Dan to Beerſheba, who were able to make war. When ſix hundred Benjamites did only remain of the twenty ſix thouſand ſeven hundred, it is plain that no more were left of that tribe, their women and children having been

* Judg. ch. 18, v. 1 † Judg. ch. 20, v. 2, 8, 11

 deſtroyed

CHAP. II deſtroyed in the cities after their defeat. The next chapter makes the matter yet plainer; for when all that were at the congregation in Mizpeh were found to have ſworn, they would not give their daughters to any of the tribe of Benjamin, no Iſraelite was free from the oath, but the men of Jabeſh-gilead, who had not been at the aſſembly. All the reſt of Iſrael was therefore comprehended; and they continuing to govern in a popular way, with abſolute power, ſent twelve thouſand of their moſt valiant men to deſtroy all the males of Jabeſh-gilead, and the women that had lain by man, reſerving the virgins for the Benjamites. This is enough for my purpoſe. For the queſtion is not concerning the power that every houſholder in London has over his wife, children, and ſervants; but whether they are all perpetually ſubject to one man and family; and I intend not to ſet up their wives, prentices, and children, againſt them, or to diminiſh their rights, but to aſſert them, as the gift of God and nature, no otherwiſe to be reſtrained, than by laws made with their conſent.

Reaſon failing, our author pleaſes himſelf with terms of his own invention. "When the people begged a king of Samuel, they were "governed by a kingly power. God, out of a ſpecial love and care to the "houſe of Iſrael, did chooſe to be their king himſelf, and did govern "them at that time by his viceroy Samuel and his ſons." The behaviour of the Iſraelites towards Samuel has been thought proud, perverſe, and obſtinate; but the fine court-word "begging" was never before applied to them; and their inſolent fury was not only ſeen againſt Samuel, but againſt God: "they have not rejected thee, but they have "rejected me." And I think Filmer is the firſt who ever found, that beggars in begging did reject him, of whom they begged. Or if they were beggars, they were ſuch as would not be denied: for after all that Samuel had ſaid to diſſuade them from their wicked deſign, they ſaid, "nay, but we will have a king."

But leſt I ſhould be thought too much inclined to contradict our author, I confeſs that once he has happened to be in the right. "God "out of a ſpecial love to the houſe of Iſrael choſe to be their king." He gave them laws, preſcribed a form of government, raiſed up men in a wonderful manner to execute it, filled them with his ſpirit, was ever preſent when they called upon him; he gave them council in their doubts, and aſſiſtance in all their extremities; he made a covenant with them, and would be exalted by them. But what is this to an earthly monarch? Who can from hence derive a right to any one man to play the lord over his brethren, or a reaſon why any nation ſhould ſet him up? God is our Lord by right of creation, and our only Lord, becauſe he only has created us. If any other were equal to him in wiſdom, power, goodneſs, and beneficence to us, he might challenge the ſame duty from us. If growing out of ourſelves, receiving being from none, depending on no providence, we were offered the protection of a wiſdom ſubject to no error, a goodneſs that could never fail, and a power that nothing could reſiſt, it were reaſonable for us to enter into a covenant, ſubmit

ſubmit ourſelves to him, and with all the faculties of our minds to addict ourſelves to his ſervice. But what right can from hence accrue to a mortal creature like to one of us, from whom we have received nothing, and who ſtands in need of help as much as we? Who can from hence deduce an argument to perſuade us to depend upon his wiſdom, who has as little as other men? to ſubmit to his will, who is ſubject to the ſame frailties, paſſions, and vices, with the reſt of mankind? or to expect protection and defence from him, whoſe life depends upon as ſlender threads as our own; and who can have no power but that which we confer upon him? If this cannot be done, but is of all things the moſt contrary to common ſenſe, no man can in himſelf have any right over us; we are all as free as the four hundred twenty ſix thouſand ſeven hundred Hebrew kings: we can naturally owe allegiance to none. And I doubt whether all the luſts that have reigned amongſt men, ſince the begining of the world, have brought more guilt and miſery upon them than that prepoſterous and impudent pretence of imitating what God had inſtituted. When Saul ſet himſelf moſt violently to oppoſe the command of God, he pretended to fulfil it. When the Jews grew weary of God's government, and reſolved to reject him, that he ſhould not reign over them, they uſed ſome of Moſes's words, and aſked that king of God, whom they intended to ſet up againſt him. But this king had not been ſet up againſt God, the people had not rejected God, and ſinned in aſking for him, if every nation by a general law ought to have one, or by a particular law one had been appointed by him over them. There was therefore no king amongſt them, nor any law of God or nature, particular or general, according to which they ought to have one. SECT. 10

SECTION X

ARISTOTLE WAS NOT SIMPLY FOR MONARCHY, OR AGAINST POPULAR GOVERNMENT; BUT APPROVED OR DISAPPROVED OF EITHER ACCORDING TO CIRCUMSTANCES.

Our author well obſerves, that Ariſtotle is hardly brought to give a general opinion in favour of monarchy, as if it were the beſt form of government, or to ſay true, never does it. He uſes much caution, propoſes conditions, and limitations, and makes no deciſion but according to circumſtances. Men of wiſdom and learning are ſubject to ſuch doubts; but none ought to wonder if ſtupidity and ignorance defend Filmer and his followers from them; or that their hatred to the antient virtue ſhould give them an averſion to the learning that was the nurſe of it. They, who neither underſtand the ſeveral ſpecies of government, nor the various tempers of nations, may without fear or ſhame give their opinions in favour of that which beſt pleaſes them; but wiſe men will always

CHAP. II always proportion their praiſes to the merit of the ſubject, and never commend that ſimply, which is good only according to circumſtances. Ariſtotle highly applauds monarchy, when the monarch has more of thoſe virtues that tend to the good of a commonwealth, than all they who compoſe it. This is the king mentioned in his Ethics, and extolled in his Politics. He is above all by nature, and ought not by a municipal law to be made equal to others in power; he ought to govern, becauſe it is better for a people to be governed by him, than to enjoy their liberty; or rather they do enjoy their liberty; which is never more ſafe, than when it is defended by one who is a living law to himſelf and others. Whereever ſuch a man appears, he ought to reign; he bears in his perſon the divine character of a ſovereign; God has raiſed him above all; and ſuch as will not ſubmit to him ought to be accounted ſons of Belial, brought forth and ſlain. But he does withal confeſs, that if no ſuch man be found, there is no natural king: all the prerogatives belonging to him vaniſh, for want of one who is capable of enjoying them. He lays ſevere cenſures upon thoſe, who, not being thus qualified, take upon them to govern men equal to, or better than themſelves; and judges the aſſumption of ſuch powers, by perſons who are not naturally adapted to the adminiſtration of them, as barbarous uſurpations, which no law or reaſon can juſtify; and is not ſo much tranſported with the excellency of this true king, as not to confeſs he ought to be limited by law. "Qui legem praeeſſe jubet, videtur jubere praeeſſe Deum et leges; qui "autem hominem praeeſſe jubet, adjungit et beſtiam; libido quippe talis eſt, "atque obliquos agit etiam viros optimos, qui ſunt in poteſtate; quo-"circa lex mens eſt appetitione vacans*." This agrees with the words of the beſt king that is known to have been in the world, proceeding, as is moſt probable, from a ſenſe of the paſſions that reigned in his own breaſt: "man being in honour, hath no underſtanding, but is like to "the beaſt that periſheth." This ſhews that ſuch as deny that kings do reign by law, or that laws may be impoſed upon kings, do equally ſet themſelves againſt the opinions of wiſe men, and the word of God. And our author, having found that learning made the Grecians ſeditious, may reaſonably doubt, that religion may make others worſe: ſo that none will be fit ſubjects of his applauded government, but thoſe who have neither religion nor learning; nor can it be introduced, till both be extinguiſhed.

Ariſtotle having declared his mind concerning government, in the books expreſly written on that ſubject, whatever is ſaid by the by, in his moral diſcourſes, muſt be referred to and interpreted by the other. And if he ſaid (which I do not find) that monarchy is the beſt form of government, and a popular ſtate the worſt, he cannot be thought to have meant otherwiſe, than that thoſe nations were the moſt happy, who

* Ὁ μεν ευ τον νομον [al. νομου] κελευων αρχειν, δοκει κελευειν αρχειν τον θεον, και τας νομους· ὁ δ' ανθρωπον κελευων, προσιθησι και θηριον· ἡ τε γαρ επιθυμια τοιουτον, και ὁ θυμος αρχοντας διαστρεφει και τας αριστας ανδρας· διοπερ ανευ ορεξεως νους ὁ νομος εστι. Ariſt. Polit. l. 3, c. 16

had

had ſuch a man as he thinks fit to be made a monarch; and thoſe the moſt unhappy, who neither had ſuch a one, nor a few, that any way excelled the reſt; but all being equally brutiſh muſt take upon them the government they were unable to manage. For he does no where admit any other end of juſt and civil government, than the good of the governed; nor any advantage due to one or a few perſons, unleſs for ſuch virtues as conduce to the common good of the ſociety. And as our author thinks learning makes men ſeditious, Ariſtotle alſo acknowledges, that thoſe who have underſtanding and courage, which may be taken for learning, or the effect of it, will never endure the government of one, or a few that do not excel them in virtue; but no where diſpraiſes a popular government, unleſs the multitude be compoſed of ſuch as are barbarous, ſtupid, lewd, vicious, and incapable of the happineſs for which governments are inſtituted; who cannot live to themſelves, but, like a herd of beaſts, muſt be brought under the dominion of another; or who, having among themſelves ſuch an excellent perſon as is above deſcribed, will not ſubmit to him, but either kill, baniſh, or bring him to be equal with others, whom God had made to excel all. I do not trouble myſelf, or the reader, with citing here or there a line out of his books, but refer myſelf to thoſe who have peruſed his moral and political writings, ſubmitting to the ſevereſt cenſures, if this be not the true ſenſe of them; and that virtue alone, in his opinion, ought to give the pre-eminence. And as Ariſtotle, following the wiſe men of thoſe times, ſhews us how far reaſon, improved by meditation, can advance in the knowledge and love of that which is truly good; ſo we may in Filmer, guided by Heylin, ſee an example of corrupted chriſtians, who, extinguiſhing the light of religion by their vices, and degenerating into beaſts (whilſt they endeavour to ſupport the perſonal intereſt of ſome men, who are raiſed to dignities by the conſent of nations, or by unwarrantable ways and means) would caſt all the power into the hands of ſuch as happen to be born in certain families; as if governments had not been inſtituted for the common good of nations, but only to increaſe their pride, and foment their vices; or as if the care and direction of a great people were ſo eaſy a work, that every man, woman, or child, how young, weak, fooliſh, or wicked ſoever, may be worthy of it, and able to manage it. SECT. 11

SECTION XI

LIBERTY PRODUCES VIRTUE, ORDER, AND STABILITY: SLAVERY IS ACCOMPANIED WITH VICE, WEAKNESS, AND MISERY.

Our author's judgment, as well as inclinations to virtue, are manifeſted in the preference he gives to the manners of the Aſſyrians, and other eaſtern nations, before the Grecians and Romans. Whereas the firſt were never remarkable for any thing, but pride, lewd-

neſs,

CHAP. II

neſs, treachery, cruelty, cowardice, madneſs, and hatred to all that is good; whilſt the others excelled in wiſdom, valour, and all the virtues that deſerve imitation. This was ſo well obſerved by St. Auguſtin, that he brings no ſtronger argument to prove, that God leaves nothing that is good in man unrewarded, than that he gave the dominion of the beſt part of the world to the Romans, who in moral virtues excelled all other nations †. And I think no example can be alleged of a free people, that has ever been conquered by an abſolute monarch, unleſs he did incomparably ſurpaſs them in riches and ſtrength. Whereas many great kings have been overthrown by ſmall republics: and the ſucceſs being conſtantly the ſame, it cannot be attributed to fortune, but muſt neceſſarily be the production of virtue and good order. Machiavel, diſcourſing of theſe matters, finds virtue to be ſo eſſentially neceſſary to the eſtabliſhment and preſervation of liberty, that he thinks it impoſſible for a corrupted people to ſet up a good government, or for a tyranny to be introduced, if they be virtuous; and makes this concluſion, "that where "the matter, that is, the body of the people, is not corrupted, tumults "and diſorders do no hurt; and where it is corrupted, good laws do no "good ‡:" which being confirmed by reaſon and experience, I think no wiſe man has ever contradicted him.

But I do not more wonder, that Filmer ſhould look upon abſolute monarchy to be the nurſe of virtue, though we ſee they did never ſubſiſt together, than that he ſhould attribute order and ſtability to it. Whereas

† Quamobrem, quamvis, ut potui, ſatis expoſuerim quâ cauſâ Deus unus verus, et juſtus, Romanos ſecundum quandam formam terrenae civitatis bonos adjuverit, ad tanti imperii gloriam conſequendam; poteſt tamen et alia cauſa eſſe latentior, propter diverſa merita generis humani, Deo magis nota, quam nobis. Aug. De Civ. Dei, l. 5, c. 19

‡ Che dove la materia non è corrotta, i tumulti ed altri ſcandali non nuocono; là dove la è corrotta le buone leggi non giovano. Machiav. Diſc. ſopra T. Livio, l. 1, c. 17

Livy, in the preface to his hiſtory, makes this remark: "Ad illa mihi pro ſe quiſque acriter intendat animum, quae vita, qui mores fuerint: per quos viros, qui"buſque artibus, domi militiaeque, et partum et auctum imperium ſit. Labente "deinde paulatim diſciplinâ, velut deſidentes primo mores ſequatur animo: deinde ut "magis magiſque lapſi ſint, tum ire coeperint praecipites, donec ad haec tempora, qui"bus nec vitia noſtra, nec remedia pati poſſumus, perventum eſt." In the firſt book, ch. 19. he mentions the battle of Actium, and ſpeaks of Octavius Caeſar, under the titles of Imperator and Auguſtus: "haec tempora," therefore muſt refer to the commencement of the Roman monarchy. About that period, as Tacitus obſerves, the people were become uncontrolably licentious: "nullus tunc legibus locus. Non aliud," ſaid the friends of Auguſtus, "diſcordantis patriae remedium fuit, quan ut ab uno rege"retur." Ann. l. i, § 9, 10. Seneca blames Brutus for acting as if he imagined that the ſtate could be inſtantly reformed at ſuch a criſis: "qui aut ibi ſperavit libertatem "futuram, ubi tam magnum praemium erat et imperandi, et ſerviendi; aut exiſtimavit "civitatem in priorem formam poſſe revocari, amiſſis priſtinis moribus, futuramque ibi "aequalitatem civilis juris, et ſtaturas ſuo loco leges, ubi viderat tot millia hominum "pugnantia, non an ſervirent, ſed cui. Quanto vero illum aut rerum naturae, aut urbis ſuae tenuit oblivio, qui uno interempto, defuturum credidit alium, qui idem vellet; cum Tarquinius eſſet inventus poſt tot reges ferro ac fulminibus occiſos?" Sen. De Benef. l. 2, c. 20

order principally conſiſts in appointing to every one his right place, office, or work; and he lays the whole weight of the government upon one perſon, who very often does neither deſerve, nor is able to bear the leaſt part of it. Plato, Ariſtotle, Hooker, and I may ſay, in ſhort, all wiſe men have held, that order requires, that the wiſeſt, beſt, and moſt valiant ſhould be placed in the offices where wiſdom, virtue, and valour, are requiſite. If common ſenſe did not teach us this, we might learn it from the Scripture. When God gave the conduct of his people to Moſes, Joſhua, Samuel, and others, he endowed them with all the virtues and graces, required for the right performance of their duty. When the Iſraelites were oppreſſed by the Midianites, Philiſtines, and Ammonites, they expected help from the wiſeſt and moſt valiant. When Hannibal was at the gates of Rome, and had filled Italy with fire and blood, and when the Gauls overwhelmed that country with their multitudes and fury, the ſenate and people of Rome put themſelves under the conduct of Camillus, Manlius, Fabius, Scipio, and the like; and when they failed to chooſe ſuch as were fit for the work to be done, they received ſuch defeats as convinced them of their error. But if our author ſay true, order required, that the power of defending the country ſhould have been annexed, as an inheritance, to one family, or left to him that could get it; and the exerciſe of all authority committed to the next in blood, though the weakeſt of women, or the baſeſt of men. SECT. IV

The like may be ſaid of judging, or doing of juſtice; and it is abſurd to pretend, that either is expected from the power, not the perſon, of the monarch: for experience does too well ſhew, how much all things halt in relation to juſtice or defence, when there is a defect in him that ought to judge us, and to fight our battles. But of all things this ought leaſt to be alleged by the advocates for abſolute monarchy, who deny that the authority can be ſeparated from the perſon, and lay it as a fundamental principle, that whoever has it, may do what he pleaſes, and be accountable to no man.

Our author's next work is to ſhew, that ſtability is the effect of this good order. But he ought to have known, that ſtability is then only worthy of praiſe, when it is in that which is good. No man delights in ſickneſs or pain, becauſe it is long or incurable; nor in ſlavery and miſery, becauſe it is perpetual: much leſs will any man in his ſenſes commend a permanency in vice and wickedneſs. He muſt therefore prove, that the ſtability he boaſts of is in things that are good, or all that he ſays of it ſignifies nothing.

I might leave him here with as little fear, that any man, who ſhall eſpouſe his quarrel, will ever be able to remove this obſtacle, as that he himſelf ſhould riſe out of his grave, and do it: but I hope to prove, that of all things under the ſun, there is none more mutable or unſtable than abſolute monarchy; which is all that I diſpute againſt, profeſſing much veneration for that which is mixed, regulated by law, and directed to the public good.

This

CHAP. II This might be proved by many arguments; but I ſhall confine myſelf to two; the one drawn from reaſon, the other from matters of fact.

Nothing can be called ſtable, that is not ſo in principle and practice; in which reſpect human nature is not well capable of ſtability: but the utmoſt deviation from it that can be imagined, is, when ſuch an error is laid for a foundation as can never be corrected. All will confeſs, that if there be any ſtability in man, it muſt be in wiſdom and virtue, and in thoſe actions that are thereby directed: for in weakneſs, folly, and madneſs there can be none. The ſtability therefore that we ſeek, in relation to the exerciſe of civil and military powers, can never be found, unleſs care be taken, that ſuch as exerciſe thoſe powers, be endowed with the qualities that ſhall make them ſtable. This is utterly repugnant to our author's doctrine: he lays for a foundation, that the ſucceſſion goes to the next in blood, without diſtinction of age, ſex, or perſonal qualities. Whereas even he himſelf could not have the impudence to ſay, that children and women, where they are admitted, or fools, madmen, and ſuch as are full of all wickedneſs, do not come to be the heirs of reigning families, as well as of the meaneſt. The ſtability therefore, that can be expected from ſuch a government, either depends upon thoſe who have none in themſelves, or is referred wholly to chance, which is directly oppoſite to ſtability.

This would be the caſe, though it were, as we ſay, an even wager, whether the perſon would be fit or unfit, and there were as many men in the world able as unable to perform the duty of a king. But experience ſhewing, that, among many millions of men, there is hardly one that poſſeſſes the qualities required in a king, it is ſo many to one, that he, upon whom the lot ſhall fall, will not be the man we ſeek, in whoſe perſon and government there can be ſuch a ſtability as is aſſerted. And that failing, all muſt neceſſarily fail: for there can be no ſtability in his will, laws, or actions, who has none in his perſon.

That we may ſee whether this be verified by experience, we need not ſearch into the dark relations of the Babylonian and Aſſyrian monarchies: thoſe rude ages afford us little inſtruction. And though the fragments of hiſtory remaining do ſufficiently ſhew, that all things there were in perpetual fluctuation, by reaſon of the madneſs of their kings, and the violence of thoſe who tranſported the empire from one place or family to another, I will not much rely upon them, but ſlightly touching ſome of their ſtories, paſs to thoſe that are better known to us.

The kings of thoſe ages ſeem to have lived rather like beaſts in a foreſt, than men joined in civil ſociety. They followed the example of Nimrod the mighty hunter. Force was the only law that prevailed, the ſtronger devoured the weaker, and continued in power till he was ejected by one of more ſtrength or better fortune. By theſe means the race of Ninus was deſtroyed by Belochus. Arbaces rent the kingdom aſunder, and took Media to himſelf. Merodach extinguiſhed the race of Belochus, and was made king. Nebuchodonoſor like a flood overwhelmed all for a time,

time, deſtroyed the kingdoms of Jeruſalem and Egypt, with many others, and found no obſtacle, till his rage and pride turned to a moſt beſtial madneſs. The Aſſyrian empire was wholly aboliſhed at the death of his grandſon Belſhazzar. And no ſtability can be found in the reigns of thoſe great kings, unleſs that name be given to the pride, idolatry, cruelty, and wickedneſs, in which they remained conſtant. If we examine matters more diſtinctly, we ſhall find that all things varied according to the humour of the Prince. Whilſt Pharaoh lived, who had received many ſignal ſervices from Joſeph, the Iſraelites were well uſed; but when another roſe up who knew him not, they were perſecuted with all the extremities of injuſtice and cruelty, till the furious king perſiſting in his deſign of exterminating them, brought deſtruction upon himſelf and the nation. Where the like power has prevailed, it has ever produced the like effects. When ſome great men of Perſia had perſuaded Darius, that it was a fine thing to command, that no man for the ſpace of thirty days ſhould make any petition to God or man, but to the king only, Daniel the moſt wiſe and holy man then in the world muſt be thrown to the lions. When God had miraculouſly ſaved him, the ſame ſentence was paſſed againſt the princes of the nation. When Haman had filled Ahaſuerus's ears with lies, all the Jews were appointed to be ſlain; and when the fraud of that villain was detected, leave was given them, with the like precipitancy, to kill whom they pleaſed. When the Iſraelites came to have kings, they were ſubject to the ſame ſtorms, and always with their blood ſuffered the penalty of their prince's madneſs. When one kind of fury poſſeſſed Saul, he ſlew the prieſts, perſecuted David, and would have killed his brave ſon Jonathan: when he fell under another, he took upon him to do the prieſt's office, pretended to underſtand the word of God better than Samuel, and ſpared thoſe that God had commanded him to deſtroy. Upon another whimſy he killed the Gibeonites, and never reſted from finding new inventions to vex the people, till he had brought many thouſands of them to periſh with himſelf and his ſons, on mount Gilboa. We do not find any king, in wiſdom, valour, and holineſs, equal to David; and yet he, falling under the temptations that attend the greateſt fortunes, brought civil wars, and a plague, upon the nation. When Solomon's heart was drawn away by ſtrange women, he filled the land with idols, and oppreſſed the people with intolerable tributes. Rehoboam's folly made that rent in the kingdom which could never be made up. Under his ſucceſſors the people ſerved God, Baal, or Aſhtaroth, as beſt pleaſed him who had the power; and no other marks of ſtability can be alleged to have been in that kingdom, than the conſtancy of their kings in the practice of idolatry, their cruelty to the prophets, and their civil wars, producing ſuch ſlaughters as are reported in few other ſtories. The kingdom was in the ſpace of about two hundred years poſſeſſed by nine ſeveral families, not one of them getting poſſeſſion, otherwiſe than by the SECT. II.

CHAP. II

ſlaughter of his predeceſſor, and the extinction of his race; and ended in the bondage of the ten tribes, which continues to this day.

He that deſires farther proofs of this point, may ſeek them in the hiſtories of Alexander of Macedon, and his ſucceſſors. He ſeems to have been endowed with all the virtues, that nature improved by diſcipline did ever attain; ſo that he is believed to be the man meant by Ariſtotle, who, on account of the excellency of his virtues, was by nature framed for a king; and Plutarch aſcribes his conqueſts rather to theſe, than to his fortune †. But even theſe virtues were overthrown by the ſucceſſes that accompanied them. He burnt the moſt magnificent palace of the world, in a frolick, to pleaſe a mad drunken whore. Upon the moſt frivolous ſuggeſtions of eunuchs and raſcals, he killed the beſt and braveſt of his friends. And his valour, which had no equal, not ſubſiſting without his other virtues, periſhed when he became lewd, proud, cruel, and ſuperſtitious; ſo that it may be truly ſaid, he died a coward. His ſucceſſors did not differ from him. When they had killed his mother, wife, and children, they exerciſed their fury againſt one another; and tearing the kingdom to pieces, the ſurvivors left the ſword as an inheritance to their families, who periſhed by it, or under the weight of the Roman chains.

When the Romans had loſt that liberty which had been the nurſe of their virtue, and gained the empire in lieu of it, they attained to our author's applauded ſtability. Julius being ſlain in the ſenate, the firſt queſtion was, whether it could be reſtored, or not? and that being decided by the battle of Philippi, the conquerors ſet themſelves to deſtroy all the eminent men in the city, as the beſt means to eſtabliſh the monarchy. Auguſtus gained it by the death of Antonius, and the corruption of the ſoldiers. And he dying naturally, or by the fraud of his wife, the empire was transferred to her ſon Tiberius; under whom the miſerable people ſuffered the worſt effects of the moſt impure luſt, and inhuman cruelty. He being ſtifled, the government went on with much uniformity and ſtability. Caligula, Claudius, Nero, Galba, Otho, Vitellius, regularly and conſtantly did all the miſchief they could, and were not more like to each other in the villainies they committed, than in the deaths they ſuffered. Veſpaſian's more gentle reign did no way compenſate for the blood he ſpilt to attain the empire. And the benefits received from Titus's ſhort-lived virtue were infinitely overbalanced by the deteſtable vices of his brother Domitian, who turned all things into the old channel of cruelty, luſt, rapine, and perfidiouſneſs. His ſlaughter gave a little breath to the gaſping, periſhing world; and men might

† Plutarch ſpeaks in the higheſt terms of Alexander's virtues, and makes theſe encomiums upon his heroiſm: Εστρατηγησεν των απο της τυχης υπαρχοντων προς το νικησαι, βελτιον. . . . Η τε γαρ τυχη ταις επιβολαις υπεικουσα την γνωμην ισχυραν εποιει, και το θυμοειδες αχρι των πραγματων επεξεφερε την φιλονεικιαν απτητον, ου μονον πολεμιους, αλλα και τοπους, και καιρους καταβιαζομενην. Plut. in vitâ Alex.

be virtuous under the government of Nerva, Trajan, Antoninus, Aurelius, SECT. II.
and a few more; though even in their time religion was always dangerous. But when the power fell into the hands of Commodus, Heliogabalus, Caracalla, and others of that ſort, nothing was ſafe but obſcurity, or the utmoſt exceſſes of lewdneſs and baſeneſs. However, whilſt the will of the governor paſſed for a law, and the power did uſually fall into the hands of ſuch as were moſt bold and violent, the utmoſt ſecurity, that any man could have for his perſon or eſtate, depended upon his temper. And princes themſelves, whether good or bad, had no longer leaſes of their lives, than the furious and corrupted ſoldiers would give them; and the empire of the world was changeable, according to the ſucceſs of a battle.

Matters were not much mended when the emperors became chriſtians. Some favoured thoſe who were called orthodox, and gave great revenues to corrupt the clergy. Others ſupported Arianiſm, and perſecuted the orthodox with as much aſperity as the pagans had done. Some revolted, and ſhewed themſelves more fierce againſt the profeſſors of chriſtianity, than they who had never had any knowledge of it. The world was torn in pieces amongſt them; and often ſuffered as great miſeries by their ſloth, ignorance, and cowardice, as by their fury and madneſs, till the empire was totally diſſolved and loſt. That which, under the weakneſs and irregularity of a popular government, had conquered all from the Euphrates to Britain, and deſtroyed the kingdoms of Aſia, Egypt, Macedon, Numidia, and a multitude of others, was made a prey to unknown barbarous nations, and rent into as many pieces as it had been compoſed of, when it enjoyed the ſtability that accompanies divine and abſolute monarchy!

The like may be ſaid of all the kingdoms in the world: they may have their ebbings and flowings according to the virtues or vices of princes, or their favourites; but can never have any ſtability, becauſe there is, and can be none in them. Or if any exception may be brought againſt this rule, it muſt be of thoſe monarchies only, which are mixed and regulated by laws, where diets, parliaments, aſſemblies of eſtates, or ſenates, may ſupply the defects of a prince, reſtrain him if he prove extravagant, and reject ſuch as are found to be unworthy of their office; which are as odious to our author and his followers, as the moſt popular governments, and can be of no advantage to his cauſe.

There is another ground of perpetual fluctuation in abſolute monarchies, or ſuch as are grown ſo ſtrong, that they cannot be reſtrained by law, though according to their inſtitution they ought to be, diſtinct from, but in ſome meaſure relating to the inclinations of the monarch, that is, the impulſe of miniſters, favourites, wives, or whores, who frequently govern all things according to their own paſſions or intereſts. And though we cannot ſay, who were the favourites of every one of the Aſſyrian or Egyptian kings, yet the examples before-mentioned of the different method followed in Egypt before and after the death of Joſeph, and in Perſia whilſt the idolatrous princes, and Haman or Daniel, Eſther and Mordecai were in credit, with the violent changes happening thereupon, give

CHAP. II

us reaſon to believe the like were in the times of other kings. And if we examine the hiſtories of later ages, and the lives of princes, that are more exactly known, we ſhall find, that kingdoms are more frequently ſwayed by thoſe who have power with the prince, than by his own judgment: ſo that whoever has to deal with princes concerning foreign or domeſtic affairs, is obliged more to regard the humour of thoſe perſons, than the moſt important intereſts of a prince or people.

I might draw too much envy upon myſelf, if I ſhould take upon me to cite all the examples of this kind that are found in modern hiſtories, or the memoirs that do more preciſely ſhew the temper of princes, and the ſecret ſprings by which they were moved. But as thoſe who have well obſerved the management of affairs in France during the reigns of Francis the firſt, Henry the ſecond, Francis the ſecond, Charles the ninth, Henry the third, Henry the fourth, and Lewis the thirteenth, will confeſs, that the intereſts of the dukes of Montmorency and Guiſe, queen Catherine de Medicis, the duke d'Eſpernon, la Foſſeuſe, madam de Guiche, d'Eſtrées, d'Entragues*, the marſhal d'Ancre, the conſtable de Luines, and the cardinal de Richelieu, were more to be conſidered by thoſe who had any private or public buſineſs to tranſact at court, than the opinions of thoſe princes, or the moſt weighty concernments of the ſtate; ſo it cannot be denied, that other kingdoms where princes legally have, or wrongfully uſurp the like power, are governed in the like manner; or if it be, there is hardly any prince's reign that will not furniſh abundant proof of what I have aſſerted.

I agree with our author, that "good order and ſtability produce "ſtrength." If monarchy therefore excel in them, abſolute monarchies ſhould be of more ſtrength than thoſe that are limited, according to the proportion of their riches, extent of territory, and number of people they govern; and thoſe limited monarchies, in the like proportion, more ſtrong than popular governments or commonwealths. If this be ſo, I wonder how a few of thoſe giddy Greeks, who, according to our author, "had learning enough only to make them ſeditious," came to overthrow thoſe vaſt armies of the Perſians, as often as they met with them; and ſeldom found any other difficulty than what did ariſe from their own countrymen, who ſometimes ſided with the barbarians. Seditions are often raiſed by a little prating; but when one man was to fight againſt fifty, or a hundred, as at the battles of Salamine, Platea, Marathon, and others, then induſtry, wiſdom, ſkill, and valour, were required; and if their learning had not made them to excel in thoſe virtues, they muſt have been overwhelmed by the prodigious multitudes of their enemies. This was ſo well known to the Perſians, that when Cyrus the younger prepared to invade his brother Artaxerxes, he brought together indeed a vaſt army of Aſiatics; but chiefly relied upon the counſel and valour of ten thouſand Grecians, whom he had engaged to ſerve him. Theſe giddy heads, accompanied with good hands, in the great battle near Babylon, found no

* See an account of theſe ladies, favourites of Henry the fourth, in Sully's Memoirs.

reſiſtance from Artaxerxes's army *. And when Cyrus was killed by accident, in the purſuit of the victory they had gained, and their own officers treacherouſly murdered, they made good their retreat into Greece, under the conduct of Xenophon, in deſpight of above four hundred thouſand horſe and foot, who endeavoured to oppoſe them. They were deſtitute of horſe, money, proviſions, friends, and all other help, except what their wiſdom and valour furniſhed them; and thereupon relying, they paſſed over the bellies of all the enemies that ventured to appear againſt them, in a march of a thouſand miles. Theſe things were performed in the weakneſs of popular confuſion. But Ageſilaus not being ſenſible of ſo great defects, accompanied only with ſix and thirty Spartans, and ſuch other forces as he could raiſe upon his perſonal credit, adventured, without authority or money, to undertake a war againſt the great king Artaxerxes; and having often beaten Pharnabazus and Tiſſaphernes his lieutenants, was preparing to aſſault him in the heart of his kingdom, when he was commanded by the Ephori to return for the defence of his own country. SECT. II

It may in like manner appear ſtrange, that Alexander with the forces of Greece, much diminiſhed by the Phocean, Peloponneſian, Theban, and other inteſtine wars, could overthrow all the powers of the eaſt, and conquer more provinces than any other army ever ſaw, if ſo much order and ſtability were to be found in abſolute monarchies, and if the liberty in which the Grecians were educated did only fit them for ſeditions. And it would ſeem no leſs aſtoniſhing, that Rome and Greece, whilſt they were free, ſhould furniſh ſuch numbers of men excelling in all moral virtues, to the admiration of all ſucceeding ages, and thereby become ſo powerful that no monarchs were able to reſiſt them; and that the ſame countries ſince the loſs of their liberty, ſhould have always been weak, baſe, cowardly, and vicious, if the ſame liberty had not been the mother and nurſe of their virtue, as well as the root of their power.

It cannot be ſaid, that Alexander was a monarch in our author's ſenſe; for the power of the Macedonian kings was ſmall. Philip confeſſed the people were freemen, and his ſon found them to be ſo, when his fortune had overthrown his virtue, and he fell to hate and fear that generoſity of ſpirit which it creates. He made his conqueſts by it, and loved it as long as he deſerved to be loved. His ſucceſſors had the ſame fortune: when their hearts came to be filled with barbaric pride, and to delight only in rendering men ſlaves, they became weak and baſe, and were eaſily overthrown by the Romans, whoſe virtue and fortune did alſo periſh with their liberty. All the nations they had to deal with, had the ſame fate. They never conquered a free people without extreme difficulty. They received many great defeats, and were often neceſſitated to fight for their lives againſt the Latins, Sabines, Tuſcans, Samnites, Carthaginians, Spa-

* Οἱ μεν γαρ Ἑλληνες ὁσον εβουλοντο τους βαρβαρους ενικων, και διωκοντες επι το πλειστον προηλθον. Plut. in vitâ Artax.

niards;

CHAP. II niards; and in the height of their power found it a hard work to ſubdue a few poor Etolians: but the greateſt kings were eaſily overcome. When Antiochus had inſolently boaſted that he would cover Greece and Italy with the multitude of his troops, Quintius Flaminius ingeniouſly compared his army of Perſians, Chaldeans, Syrians, Meſopotamians, Cappadocians, Arabians, and other baſe Aſiatic ſlaves, to a ſupper ſet before him by a Grecian friend, which, ſeeming to be of ſeveral ſorts of veniſon, was all cut out of one hog, variouſly dreſſed *. And not long after, that vaſt multitude was as eaſily ſlaughtered as the hog had been. The greateſt danger of the war with Mithridates was to avoid his poiſons and treacheries; and to follow him through the deſarts where he fled. When Lucullus, with leſs than twenty thouſand men, had put Tigranes with two hundred thouſand to flight, the Roman ſoldiers, who for a while had purſued the chace, ſtood ſtill on a ſudden, and fell into a loud laughter at themſelves for uſing their arms againſt ſuch wretched cowardly ſlaves †. If this be not enough to prove the falſhood of our author's propoſition, I deſire it may be conſidered, whether good order or ſtability be wanting in Venice; whether Tuſcany be in a better condition to defend itſelf ſince it fell under the power of the houſe of Medicis, or when it was full of free cities; whether it were an eaſy work to conquer Switzerland; whether the Hollanders are of greater ſtrength ſince the recovery of their liberty, or when they groaned under the yoke of Spain; and laſtly, whether the entire conqueſt of Scotland and Ireland, the victories obtained againſt the Hollanders when they were in the height of their power, and the reputation to which England did riſe in leſs than five years after 1648, be good marks of the inſtability, diſorder, and weakneſs of free nations: and if the contrary be true, nothing can be more abſurdly falſe than our author's aſſertion.

SECTION XII

THE GLORY, VIRTUE, AND POWER OF THE ROMANS BEGAN AND ENDED WITH THEIR LIBERTY.

Among many fine things propoſed by our author, I ſee none more to be admired, or that better declares the ſoundneſs of his judgment, than that he is only pleaſed with the beginning and end of the Roman empire;

* Προς δε τες Αχαιες των παρα Αντιοχε πρεσβεων πληθος τι της βασιλικης στρατιας καταλεγοντων, και καταριθμουμενων πολλας προσηγοριας, ὁ Τιτος εφη, δειπνουντος αυτε παρα τω ξενω, και μεμφομενε το πληθος των κρεων, και θαυμαζοντος ποθεν ὑτω ποικιλης αγορας ευπορησεν, ειπειν τον ξενον, ὡς ὑεια παντα εσιν, τη σκευασια διαφερονται και τοις ηδυσμασιν. Plut. in vitâ T. Q. Flamin.

† Στραβων δ' εν τοις ἱστορικοις ὑπομνημασιν, αυτες λεγει τες Ρωμαιες αισχυνεσθαι και καταγελαν ἑαυτων επ' ανδραποδα τοιαυτα δεηθεντας ὁπλα. Plut. in vitâ Lucul.

and

and ſays, that their time of liberty (between thoſe two extremes) had nothing of good in it, but that it was of ſhort continuance. Whereas I dare affirm, that all that was ever deſirable, or worthy of praiſe and imitation in Rome, proceeded from its liberty, grew up, and periſhed with it: which I think will not be contradicted by any, but thoſe who prefer the moſt ſordid vices before the moſt eminent virtues; who believe the people to have been more worthily employed by the Tarquins in cleanſing jakes, and common ſewers, than in acquiring the dominion of the beſt part of mankind; and account it better for a people to be oppreſſed with hard labour under a proud maſter in a ſteril, unhealthy ten-mile territory, than to command all the countries that lie between the Euphrates and Britain. Such opinions will hardly find any better patrons than Filmer and his diſciples; nor the matters of fact, as they are repreſented, be denied by any that know the hiſtories of thoſe times. Many Romans may have had ſeeds of virtue in them, whilſt in the infancy of that city they lived under kings; but they brought forth little fruit. Tarquin ſurnamed the Proud, being a Grecian by extraction, had perhaps obſerved, that the virtue of that nation had rendered them averſe to the divine government he deſired to ſet up; and having by his wellnatur'd Tullia poiſoned his own brother her huſband, and his own wife her ſiſter, married her, killed her father, and ſpared none that he thought able to oppoſe his deſigns, to finiſh the work, he butchered the ſenate, with ſuch as ſeemed moſt eminent among the people, and like a moſt pious father endeavoured to render the city deſolate. During that time they, who would not be made inſtruments of thoſe villainies, were obliged for their own ſafety to conceal their virtues; but, he being removed, they ſhined in their glory. Whilſt he reigned, Brutus, Valerius, Horatius, Herminius, Lartius, and Coriolanus, lay hid and unregarded; but when they came to fight for themſelves, and to employ their valour for the good of their country, they gave ſuch teſtimonies of bravery, as have been admired by all ſucceeding ages; and ſettled ſuch a diſcipline, as produced others like to them, or more excellent than they, as long as their liberty laſted. In two hundred and ſixty years, that they remained under the government of kings, though all of them, the laſt only excepted, were choſen by the ſenate and people, and did as much to advance the public ſervice as could reaſonably be expected from them, their dominion hardly extended ſo far as from London to Hounſlow. But in little more than three hundred years after they recovered their liberty, they had ſubdued all the warlike nations of Italy, deſtroyed vaſt armies of the Gauls, Cimbri, and Germans, overthrown the formidable power of Carthage, conquered the Ciſalpine and Tranſalpine Gauls, with all the nations of Spain, notwithſtanding the ferocity of the one, and the more conſtant valour of the other, and the prodigious multitudes of both; they had brought all Greece into ſubjection, and, by the conqueſt of Macedon, the ſpoils of the world to adorn their city; and found ſo little difficulty in all the wars, that happened between them and the greateſt SECT. 12

kings

CHAP. II kings after the death of Alexander of Epirus, and Pyrrhus, that the defeats of Syphax, Perſeus, Antiochus, Pruſias, Tigranes, Ptolemy, and many others, did hardly deſerve to be numbered among their victories.

It were ridiculous to impute this to chance, or to think, that fortune, which of all things is the moſt variable, could for ſo many ages continue the ſame courſe, unleſs ſupported by virtue; or to ſuppoſe, that all theſe monarchies, which are ſo much extolled, could have been deſtroyed by that commonwealth, if it had wanted ſtrength, ſtability, virtue, or good order. The ſecret counſels of God are impenetrable; but the ways by which he accompliſhes his deſigns are often evident. When he intends to exalt a people, he fills both them and their leaders with the virtues ſuitable to the accompliſhment of his end; and takes away all wiſdom and virtue from thoſe he reſolves to deſtroy. The pride of the Babylonians and Aſſyrians fell through the baſeneſs of Sardanapalus; and the great city was taken while Belſhazzar lay drunk amongſt his whores. The empire was tranſported to the Perſians and Grecians by the valour of Cyrus, Alexander, and the brave armies that followed them. Hiſtories furniſh us with innumerable examples of this kind: but I think none can be found of a cowardly, weak, effeminate, fooliſh, ill-diſciplined people, that have ever ſubdued ſuch as were eminent in ſtrength, wiſdom, valour, and good diſcipline; or that theſe qualities have been found or ſubſiſted any where, unleſs they were cultivated and nouriſhed by a well-ordered government. If this therefore was found among the Romans, and not in the kingdoms they overthrew, they had the order and ſtability which the monarchies had not; and the ſtrength and virtue, by which they obtained ſuch ſucceſs, was the product of them. But if this virtue, and the glorious effects of it, did begin with liberty, it alſo expired with the ſame. The beſt men that had not fallen in battle were gleaned up by the proſcriptions, or circumvented for the moſt part by falſe and frivolous accuſations. Mankind is inclined to vice, and the way to virtue is ſo hard, that it wants encouragement; but when all honours, advantages, and preferments, are given to vice, and deſpiſed virtue finds no other reward than hatred, perſecution, and death, there are few who will follow it. Tacitus well deſcribes the ſtate of the empire, when the power was abſolutely fallen into the hands of one: "Italia novis cladi-"bus, vel poſt longam ſeculorum ſeriem repetitis, afflicta; urbs incendiis "vaſtata, conſumptis antiquiſſimis delubris, ipſo capitolio civium mani-"bus incenſo; pollutae caerimoniae; magna adulteria; plenum exiliis "mare; infecti caedibus ſcopuli; atrociùs in urbe ſaevitum; nobilitas, "opes, omiſſi geſtique honores pro crimine, et ob virtutes certiſſimum "exitium†." His following words ſhew, that the rewards of theſe abominations were not leſs odious than the things themſelves: the higheſt dignities were beſtowed upon the "delatores," who were a kind of

† Tacit. Hiſt. l. 1, §. 2

rogues

rogues like to our Iriſh witneſſes, or thoſe that by a new coined word we call "trepanners." This is not a picture drawn by a vulgar hand, but by one of the beſt painters in the world; and being a model that ſo much pleaſes our author, it is good to ſee what it produced. The firſt fruit was ſuch an entire degeneracy from all good, that Rome may be juſtly ſaid never to have produced a brave man ſince the firſt age of her ſlavery. Germanicus and Corbulo were born "expirante libertate;" and the recompence they received did ſo little encourage others to follow their example, that none have been found in any degree like to them. Thoſe of the moſt noble families applied themſelves to ſleep, lazineſs, and luxury, that they might not be ſuſpected to be better than their maſters. Thraſea, Soranus, and Helvidius, were worthy men, who reſolved to perſiſt in their integrity, though they ſhould die for it: but that was the only thing that made them eminent; for they were of unknown families, not Romans by birth, nor ever employed in war. And thoſe emperors who did arrive to any degree of virtue were Spaniards, Gauls, Africans, Thracians, and of all nations, except Romans. The patrician and plebeian families, which for many ages had filled the world with great commanders, and ſuch as excelled in all virtues, being thus extinguiſhed or corrupted, the common people fell into the loweſt degree of baſeneſs: "plebs ſordida, et circo ac theatris ſueta*." That people, which in magnanimity ſurpaſſed all that have been known in the world, who never found any enterprize above their ſpirit to undertake, and power to accompliſh, with their liberty loſt all their vigour and virtue. They, who by their votes had diſpoſed of kingdoms and provinces, fell to deſire nothing but to live and ſee plays †. Whether their emperors were good or bad, they uſually rejoiced at their death, in hopes of getting a little money or victuals from the ſucceſſor. Though the empire was by theſe means grown weak and bloodleſs, yet it could not fall on a ſudden: ſo vaſt a body could not die in a moment. All the neighbouring nations had been ſo much broken by their power, that none was able to take advantage of their weakneſs; and life was preſerved by the ſtrength of hungry barbarians, allured by the greatneſs of the pay they received to defend thoſe, who had no power left to defend themſelves. This precarious and accidental help could not be durable. They, who for a while had been contented with their wages, ſoon began to think it fit for them rather to fight for themſelves, than for their weak maſters; and thereupon fell to ſet up emperors depending on themſelves, or to ſeize upon the naked provinces, where they found no other difficulty than to contend with other ſtrangers, who might have the like deſign upon the ſame. Thus did the armies of the eaſt and weſt ſet up emperors at their pleaſure. And though the Goths, Vandals, Huns, Sueves, Alans, and others, had

SECT. 12

* Tacit. Hiſt. l. 1, § 4

† Duas tantùm res anxius optat,
Panem et Circenſes. Juv. Sat. 10, v. 80

CHAP. II cruel wars among themſelves, yet they feared and ſuffered little or nothing from the Romans. This ſtate of things was ſo ſoon obſerved, that in the beginning of Tiberius's reign, they who endeavoured to excite the Gauls to take arms uſed no other arguments, than ſuch as were drawn from the extreme weakneſs of the Romans *. It was evident, that after the battles of Philippi and Actium, the ſtrength of the Roman armies conſiſted of ſtrangers; and even the victories that went under their name were gained by thoſe nations, which in the time of their liberty they had ſubdued. They had nothing left but riches gathered out of their vaſt dominions; and they learned by their ruin, that an empire acquired by virtue could not long be ſupported by money. They, who by their valour had arrived at ſuch a height of glory, power, greatneſs, and happineſs, as was never equalled, and who in all appearance had nothing to fear from any foreign power, could never have fallen, unleſs their virtue and diſcipline had decayed, and the corruption of their manners had excited them to turn their victorious ſwords into their own bowels. Whilſt they were in that flouriſhing condition, they thought they had nothing more to deſire than continuance. But if our author's judgment is to be followed, there was nothing of good in it, except the ſhortneſs of its continuance; they were beholden to thoſe who wrought the change; they were the better for the battles of Pharſalia, Philippi, Munda, and Actium; the deſtruction of two thirds of the people, with the ſlaughter of all the moſt eminent men among them, was for their advantage; the proſcriptions were wholſome remedies; Tacitus did not underſtand the ſtate of his own country, when he ſeems to be aſhamed to write the hiſtory of it, and ſays, "nobis in arcto et inglorius labor;" when inſtead of ſuch glorious things as had been atchieved by the Romans, whilſt either the ſenate, or the common people prevailed, he had nothing left to relate, but "ſæva "juſſa, continuas accuſationes, fallaces amicitias, perniciem inno- "centium †;" they enjoyed nothing that was good from the expulſion of the Tarnquins, to the re-eſtabliſhment of divine abſolute monarchy in the perſons of thoſe pious fathers of the people, Tiberius, Caligula, Claudius, Nero, Galba, Otho, Vitellius, and the like; there was no virtue in the Junii, Horatii, Cornelii, Quintii, Decii, Manlii; but the generous and tender-hearted princes before-mentioned were perfect examples of it; while annual magiſtrates governed, there was no ſtability; Sejanus, Macro, and Tigellinus, introduced good order; virtue was not eſteemed by the antient ſenate and people; Meſſalina, Agrippina, Poppaea, Narciſſus, Pallas, Vinius, and Laco, knew how to put a juſt value upon it; the irregularities of popular aſſemblies, and want of prudence in the ſenate, were repaired by the temperate proceedings of the German,

* Egregium reſumendae libertati tempus, ſi ipſi florentes, quam inops Italia, quam imbellis urbana plebes, nihil validum in exercitibus, niſi quod externum, cogitarent. Tacit. Ann. l. 3, § 40

† Ibid. l. 4, § 32, 33

Pannonian, and eaſtern armies, or the modeſt diſcretion of the pretorian bands; the city was delivered by them from the burden of governing the world, and for its own good frequently plundered, fired, and, at laſt, with the reſt of deſolated Italy, and the nobleſt provinces of Europe, Aſia, and Africa, brought under the yoke of the moſt barbarous and cruel nations. By the ſame light we may ſee, that they who endeavoured to perpetuate the miſery of liberty to Rome, or loſt their lives in the defence of it, were the worſt, or the moſt fooliſh of men; and that they were the beſt who did overthrow it. This rectifies all our errors. And if the higheſt praiſes are due to him who did the work, the next are well deſerved by thoſe who periſhed in attempting it. And if the ſons of Brutus, with their companions the Vitellii and Aquilii, Appius Claudius the decemvir, thoſe that would have betrayed the city to Porſenna, Spurius Moelius, Spurius Caſſius, Manlius Capitolinus, Saturninus, Catiline, Cethegus, Lentulus, had been as fortunate as Julius Caeſar, they might as well have deſerved an apotheoſis. But if all this be falſe, abſurd, beſtial, and abominable, the principles that neceſſarily lead us to ſuch concluſions are ſo alſo: which is enough to ſhew, that the ſtrength, virtue, glory, wealth, power, and happineſs of Rome, proceeding from liberty, did riſe, grow, and periſh with it. SECT. 13

SECTION XIII

THERE IS NO DISORDER OR PREJUDICE IN CHANGING THE NAME OR NUMBER OF MAGISTRATES, WHILE THE ROOT AND PRINCIPLE OF THEIR POWER CONTINUES ENTIRE.

In the next place, our author would perſuade us, that the Romans were inconſtant becauſe of their changes from annual conſuls to military tribunes, decemviri, and dictators; and gives the name of ſedition to the complaints made againſt uſury, or the conteſts concerning marriages and magiſtracy. But I affirm,

1. That no change of magiſtracy, as to the name, number, or form, teſtifies irregularity, or brings any manner of prejudice, as long as it is done by thoſe who have a right of doing it, and he or they who are created continue within the power of the law to accompliſh the end of their inſtitution; many forms being in themſelves equally good may be uſed as well one as another, according to times, and other circumſtances.

2. It is a rare thing for a city at the firſt to be rightly conſtituted: men can hardly at once foreſee all that may happen in many ages, and the changes that accompany them ought to be provided for. Rome in its foundation was ſubject to theſe defects; and the inconveniencies ariſing from them were by degrees diſcovered and remedied. They did not think of regulating uſury, till they ſaw the miſchiefs proceeding from the cruelty

CHAP. II. of uſurers; or ſetting limits to the proportion of land that one man might enjoy, till the avarice of a few had ſo far ſucceeded, that their riches were grown formidable, and many by the poverty to which they were reduced became uſeleſs to the city. It was not time to make a law, that the plebeians mightm arry with the patricians, till the diſtinction had raiſed the patricians to ſuch pride, as to look upon themſelves to have ſomething of divine, and the• others to be "inauſpicati," or "profane†," and brought the city into danger by that diviſion; nor to make the plebeians capable of being elected to the chief magiſtracies, till they had men able to perform the duties of them. But theſe things being obſerved, remedies were ſeaſonably applied without any bloodſhed or miſchief, though not without noiſe and wrangling.

3. All human conſtitutions are ſubject to corruption, and muſt periſh, unleſs they are timely renewed, and reduced to their firſt principles: this was chiefly done by means of thoſe tumults which our author ignorantly blames. The whole people, by whom the magiſtracy had been at firſt created, executed their power in thoſe things which comprehend ſovereignty in the higheſt degree, and brought every one to acknowlege it: there was nothing that they could not do, who firſt conferred the ſupreme honours upon the patricians, and then made the plebeians equal to them. Yet their modeſty was not leſs than their power or courage. And therefore, when by the law they might have made a plebeian conſul, they did not chooſe one in forty years; and when they did make uſe of their right in advancing men of their own order, they were ſo prudent, that they cannot be ſaid to have been miſtaken in their elections three times, while their votes were free. Whereas, of all the emperors that came in by uſurpation, pretence of blood from thoſe who had uſurped, or that were ſet up by the ſoldiers, or a few electors, hardly three can be named who deſerved that honour, and moſt of them were ſuch as ſeemed to be born for plagues to mankind.

4. He manifeſts his fraud or ignorance in attributing the legiſlative power ſometimes to the ſenate, and ſometimes to the people; for the ſenate never had it. The ſtile of "ſenatus cenſuit, populus juſſit," was never altered; but the right of adviſing continuing in the ſenate, that of enacting ever continued in the people.

5. An occaſion of commending abſolute power, in order to the eſtabliſhment of hereditary monarchy, is abſurdly drawn from their cuſtom of creating a dictator in time of danger; for no man was ever created, but ſuch as ſeemed able to bear ſo great a burden, which in hereditary governments is wholly left to chance. Though his power was great, it did ariſe from the law; and being confined to ſix months, it was almoſt impoſſible for any man to abuſe it, or to corrupt ſo many of thoſe who had enjoyed the ſame honour, or might aſpire to it, as to bring them for his pleaſure to betray their country. And as no man was ever choſen who

† Penes quos ſunt auſpicia, more majorum? nempe penes patres: nam plebeius quidem magiſtratus nullus auſpicatò creatur. Claud. Craſſ. orat. Liv. l. 6, c. 41

had not given great teſtimonies of his virtues, ſo no one did ever forfeit the good opinion conceived of him. Virtue was then honoured, and thought ſo neceſſarily to comprehend a ſincere love and fidelity to the commonwealth, that without it the moſt eminent qualities were reputed vile and odious; and the memory of former ſervices could no way expiate the guilt of conſpiring againſt it. This ſeeming ſeverity was in truth the greateſt clemency. For though our author has the impudence to ſay, that during the Roman liberty the beſt men thrived worſt, and the worſt beſt, he cannot allege one example of any eminent Roman put to death, except Manlius Capitolinus, from the expulſion of the Tarquins to the time of the Gracchi, and the civil wars not long after enſuing; and of very few who were baniſhed. By theſe means crimes were prevented; and the temptations to evil being removed, treachery was deſtroyed in the root; and ſuch as might be naturally ambitious were made to ſee there was no other way to honour and power, than by acting virtuouſly. SECT. 13.

But leſt this ſhould not be ſufficient to reſtrain aſpiring men, what power ſoever was granted to any magiſtrate, the ſovereignty ſtill remained in the people, and all, without exception, were ſubject to them. This may ſeem ſtrange to thoſe who think the dictators were abſolute, becauſe they are ſaid to have been "ſine provocatione *;" but that is to be only underſtood in relation to other magiſtrates, and not to the people, as is clearly proved in the caſe of Q. Fabius, whom Papirius the dictator would have put to death. "Tribunos plebis appello," ſays the father of Fabius Maximus, "et provoco ad populum; eumque tibi fugienti exercitûs tui, "fugienti ſenatûs judicium, judicem fero, qui certè unus plus quam tua "dictatura poteſt polletque; videro, ceſſuruſne provocationi ſis, cui rex "Romanus Tullus Hoſtilius ceſſit †." Though the people did rather intercede for Fabius than command his deliverance, that modeſty did evidently proceed from an opinion that Papirius was in the right. And though they deſired to ſave Fabius, who ſeems to have been one of the greateſt and beſt men that ever the city produced, they would not enervate that military diſcipline, to which they owed, not only their greatneſs, but their ſubſiſtence: eſpecially when their ſovereign authority was acknowledged by all, and the dictator himſelf had ſubmitted. This right of appeals to the people was the foundation of the Roman commonwealth, laid in the days of Romulus, ſubmitted to by Hoſtilius in the caſe of Horatius ‡, and never violated, till the laws and the liberty, which they ſupported, were overthrown by the power of the ſword. This is confirmed by the ſpeech of Metellus the tribune, who, in the time of the ſecond Carthaginian war, cauſleſly diſliking the proceedings of Q. Fabius Maximus then dictator, in a public aſſembly of the people, ſaid, "Si antiquus animus plebi Romanae eſſet, audacter ſe laturum fuiſſe de "abrogando Q. Fabii imperio; nunc modicam rogationem promulga-"turum, de aequando magiſtri equitum et dictatoris jure §:" which

* Liv. l. 2, c. 18, 29. Sine provocatione dictatura. Ibid. l. 3, c. 20.
† Ibid. l. 8, c. 33. ‡ Ibid. l. 1, c. 26. § Ibid. l. 22, c. 25.

was

CHAP. II was done. And that action which had no precedent ſhews, that the people needed none, and that their power, being eminently above that of all magiſtrates, was obliged to no other rule than that of their own will. Though I do therefore grant, that a power like to the dictatorian, limited in time, circumſcribed by law, and kept perpetually under the ſupreme authority of the people, may, by virtuous and well-diſciplined nations, upon ſome occaſions, be prudently granted to a virtuous man, it can have no relation to our author's monarch, whoſe power is in himſelf, ſubject to no law, perpetually exerciſed by himſelf, and for his own ſake, whether he have any of the abilities required for the due performance of ſo great a work, or be entirely deſtitute of them: nothing being more unreaſonable than to deduce conſequences from caſes, which in ſubſtance and circumſtances are altogether unlike. But on the contrary, theſe examples, ſhewing that the Romans, even in the time of ſuch magiſtrates as ſeemed to be moſt abſolute, did retain and exerciſe the ſovereign power, do moſt evidently prove, that the government was ever the ſame, remaining in the people, who without prejudice might give the adminiſtration to one or more men, as beſt pleaſed themſelves: and the ſucceſs ſhews, that they did it prudently.

SECTION XIV

NO SEDITION WAS HURTFUL TO ROME, TILL THROUGH THEIR PROSPERITY SOME MEN GAINED A POWER ABOVE THE LAWS.

Little pains is required to confute our author, who imputes much blood ſhed to the popular government of Rome; for he cannot prove, that one man was unjuſtly put to death, or ſlain, in any ſedition before Publius Gracchus. The foundations of the commonwealth were then ſo ſhaken, that the laws could not be executed; and whatever did then fall out ought to be attributed to the monarchy for which the great men began to contend. While they had no other wars than with neighbouring nations, they had a ſtrict eye upon their commanders, and could preſerve diſcipline among the ſoldiers. But when, by the excellence of their valour and conduct, the greateſt powers of the world were ſubdued, and, for the better carrying on of foreign wars, armies were ſuffered to continue in the ſame hands longer than the law did direct, ſoldiery came to be accounted a trade, and thoſe, who had the worſt deſigns againſt the commonwealth, began to favour all manner of licentiouſneſs and rapine, that they might gain the favour of the legions, who by theſe means became unruly and ſeditious. It was hard, if not impoſſible, to preſerve a civil equality, when the ſpoils of the greateſt kingdoms were brought to adorn the houſes of private men; and they, who had the greateſt cities and nations their dependents and clients, were

apt

apt to ſcorn the power of the law. This was a moſt dangerous diſeaſe, SECT. 14
like thoſe to which human bodies are ſubject, when they are arrived to that which phyſicians call the athletic habit, proceeding from the higheſt perfection of health, activity, and ſtrength, that the beſt conſtitution by diet and exerciſe can attain. Whoever falls into them ſhews, that he had attained that perfection; and he, who blames that which brings a ſtate into the like condition, condemns that which is moſt perfect among men. While the Romans were in the way to this, no ſedition did them any hurt: they were compoſed without blood; and thoſe that ſeemed to be the moſt dangerous produced the beſt laws. But when they were arrived to that condition, no order could do them good; the fatal period ſet to human things was come; they could go no higher:

——" Summiſque negatum
" Stare diu." *

And all that our author blames is not to be imputed to their conſtitution, but their departing from it. All men were ever ſubject to error; and it may be ſaid, that the miſtaken people, in the ſpace of about three hundred years, did unjuſtly fine or baniſh five or ſix men. But thoſe miſtakes were ſo frankly acknowledged, and carefully repaired by honours beſtowed upon the injured perſons, as appears by the examples of Furius Camillus, Livius Salinator, Aemilius Paulus, and others, that they deſerve more praiſe than if they had not failed.

If for the above-mentioned time ſeditions were harmleſs or profitable, they were alſo abſolutely exempted from civil wars. Thoſe of Apulia and Greece were revolts of conquered nations, and can no way fall under that name: but it is moſt abſurdly applied to the ſervile and gladiatorian wars; for the gladiators were ſlaves alſo, and civil wars can be made only by thoſe who are members of the civil ſociety, which ſlaves are not. Thoſe that made the " bellum ſociale," were freemen, but not citizens; and the war they made could not be called civil. The Romans had three ways of dealing with conquered nations.

1. Some were received into the body of the city, " civitate donati:" as the Latins by Romulus; the Albans by Hoſtilius; the Privernates, when their embaſſador declared, that no peace could be durable unleſs it were juſt and eaſy; and the ſenate ſaid, " ſe viri et liberi vocem audi-" viſſe, taleſque dignos eſſe qui Romani fiant †;" and the like favour was ſhewn to many others.

2. By making leagues with them, as Livy ſays, " populum Roma-" num devictas bello gentes malle fide ac ſocietate junctas habere, " quam triſti ſubjectas ſervitio ‡:" of which ſort were the Samnites, who, not liking their condition, joined with Hannibal; and afterwards, under the conduct of the brave Teleſinus, with other nations that lived

* Luc. Phar. l. 1, v. 70. † Liv. l. 8, c. 21. ‡ Ibid. l. 26, c. 49.

under

CHAP. II under the condition of "ſocii," made an unproſperous attempt to deliver themſelves *.

3. Others, who were ſubdued after many rebellions, were "in provinciam redacti:" as the Capuans, when their city was taken by Appius Claudius, and Q. Fulvius Flaccus †.

We often hear of wars made by thoſe of the two latter ſorts; but of none that can be called civil, till the times of Marius, Sylla, and Catiline. And as they are to be eſteemed the laſt ſtrugglings of expiring liberty, when the laws, by which it had ſubſiſted, were enervated, ſo thoſe that happened between Caeſar and Pompey, Octavius and Antonius, with the proſcriptions, triumvirate, and all the miſchiefs that accompanied them, are to be imputed wholly to the monarchy for which they contended, as well as thoſe between Nero, Galba, Otho, Vitellius, and Veſpaſian, that hardly ever ceaſed till the empire was aboliſhed: for the name of commonwealth continued to the end; and I know not why Tiberius or Nero might not uſe it as well as Sylla or Marius.

Yet if our author be reſolved to impute to popular government all that paſſed before Caeſar made himſelf perpetual dictator, he will find no more than is ſeen in all places. We have known few ſmall ſtates, and no great one free from revolts of ſubjects or allies; and the greateſt empire of the eaſt was overthrown by the rebellion of the Mammelucs their ſlaves. If there is any difference to be obſerved between what happened at Rome, it is chiefly, that, whilſt there was any ſhadow of liberty, the ſlaves, gladiators, ſubjects or allies, were always beaten and ſuppreſſed. Whereas, in the time of the emperors, the revolt of a province was ſufficient to give a new maſter to the beſt part of mankind; and he, having no more power than was required for a preſent miſchief, was for the moſt part, in a ſhort time, deſtroyed by another. But to pleaſe our author, I will acknowlege a ſecond defect, even that "wantonneſs" to which he aſcribes all their diſorders; though I muſt withal deſire him to conſider from whence wantonneſs proceeds. If the people of Turky or France did rebel, I ſhould think they were driven to it by miſery, beggary, or deſpair; and could lay wantonneſs only to the charge of thoſe who enjoy much proſperity. Nations, that are oppreſſed and made miſerable, may fall into rage, but can never grow wanton. In the time of the Roman emperors, the pretorian cohorts, or the armies that had the liberty of ravaging the richeſt provinces, might be proud of their ſtrength, or grow wanton through the abundance of their enjoyments. The Janizaries in latter ages may, for the ſame reaſons, have fallen into the like exceſſes: but ſuch as have loſt their liberty are in no danger of them. When all the nobility of Rome was deſtroyed, and thoſe, who excelled in reputation or virtue, were fallen in the wars, or by the proſcriptions; when two thirds of the people were ſlain, the

* Flor. l. 3, c. 18

† Ager omnis, et tecta publica populi Romani facta. Liv. l. 26, c. 16

beſt

beſt cities and colonies burnt, the provinces exhauſted, and the ſmall remains left in them oppreſſed with a moſt miſerable ſlavery, they may have revolted, and ſometimes did, as the Britons, Batavians, and others mentioned in the Roman hiſtory: but they were driven to thoſe revolts by fury and neceſſity, ariſing from the miſeries and indignities they ſuffered under an inſupportable tyranny; and wantonneſs had no part in them. The people of Rome, when they were a little freed from the terror of the ſoldiers, did ſometimes for the ſame reaſons conſpire againſt the emperors; and when they could do no more, expreſſed their hatred by breaking their ſtatues. But after the battles of Pharſalia, Philippi, and the proſcriptions, they never committed any folly through wantonneſs. In the like manner Naples and Sicily have revolted within theſe few years; and ſome, who are well acquainted with the ſtate of thoſe kingdoms, think them ready again to do the like: but if it ſhould ſo happen, no man of underſtanding would impute it to wantonneſs. The preſſures under which they groan, have cured them of all ſuch diſeaſes; and the Romans after the loſs of their liberty could never fall into them. They may have grown wanton when their authority was reverenced, their virtue admired, their power irreſiſtible, and the riches of the world were flowing in upon them, as it were, to corrupt their manners, by enticing them to pleaſure. But when all that was loſt, and they found their perſons expoſed to all manner of violence from the baſeſt of men, their riches exhauſted by tributes and rapine, whilſt the treaſures of the empire were not ſufficient to ſupply the luxury of their maſters, the miſery they ſuffered, and the ſhame of ſuffering it, with the contemptible weakneſs to which they were reduced, did too ſtrongly admoniſh them, that the vices of wantonneſs belonged only to thoſe who enjoyed a condition far different from theirs; and the memory of what they had loſt ſharpened the ſenſe of what they felt. This is the ſtate of things which pleaſes our author; and, by praiſing that government, which deprived thoſe who were under it of all that is moſt deſirable in the world, and introduced all that ought to be deteſted, he ſufficiently ſhews, that he delights only in that which is moſt abominable, and would introduce his admired abſolute monarchy, only as an inſtrument of bringing vice, miſery, devaſtation, and infamy, upon mankind. SECT. 15

SECTION XV

THE EMPIRE OF ROME PERPETUALLY DECAYED, WHEN IT FELL INTO THE HANDS OF ONE MAN.

In purſuance of his deſign our author, with as much judgment as truth, denies that Rome became miſtreſs of the world under the popular government. "It is not ſo," ſays he, "for Rome began her empire under

CHAP. II

" kings, and did perfect it under emperors: it did only increaſe under " that popularity. Her greateſt exaltation was under Trajan, and her " longeſt peace under Auguſtus." For the illuſtration of which, I deſire theſe few things may be conſidered.

1. That the firſt monarchy of Rome was not abſolute. The kings were made by the people without regard to any man's title, or other reaſon than the common good, chooſing him that ſeemed moſt likely to procure it; ſetting up at the ſame time a ſenate, conſiſting of a hundred of the moſt eminent men among them; and, after the reception of the Sabines into the city, adding as many more to them, and committing the principal part of the government to their care, retaining the power of making thoſe laws, to which the kings who reigned by their command were ſubject, and reſerving to themſelves the judgment of all great matters upon appeal. If any of their kings deſerved to be called a monarch, according to Filmer's definition, it was the laſt Tarquin; for he alone of all their kings reigned not " juſſu populi," but came in by treachery and murder. If he had continued, he had cured the people of all vices proceeding from wantonneſs. But his fartheſt conqueſt was of the ſmall town of Gabii, ten miles diſtant from Rome, which he effected by the fraud of his deteſtable ſon †; and that, being then the utmoſt limit of the Roman empire, muſt deſerve to be called the world, or the empire of it was not gained by their kings.

2. The extent of conqueſts is not the only, nor the chief thing that ought to be conſidered in them; regard is to be had to the means by which they are made, and the valour or force that was employed by the enemy. In theſe reſpects not only the overthrow of Carthage, and the conqueſts of Spain, but the victories gained againſt the Sabines, Latins, Tuſcans, Samnites, and other valiant nations of Italy, who moſt obſtinately defended their liberty, when the Romans had no forces but their own, ſhew more virtue, and deſerve incomparably more praiſe, than the defeats of any nations whatever, when they were increaſed in number, riches, reputation, and power, and had many other warlike people inſtructed in their diſcipline, and fighting under their enſigns. But I deny, that the Romans did ever make any conſiderable acquiſition after the loſs of their liberty. They had already ſubdued all Italy, Greece, Macedon, the iſlands of the Mediterranean Sea, Thracia, Illyrium, Aſia the leſs, Pontus, Armenia, Syria, Egypt, Africa, Gaul, and Spain. The forces of Germany were broken; a bridge laid over the Rhine, and all the countries on this ſide ſubdued. This was all that was ever gained by the valour of their own forces, and that could bring either honour or profit. But I know of no conqueſt made after that time, unleſs the name of conqueſt be given to Caligula's expedition, when he ſaid he had ſubdued the ſea, in making an uſeleſs bridge from Puteoli to

† Liv. l. 1, c. 54.

Baiae;

Baiae*; or when he entered Rome in triumph, for having gathered ſhells on the ſea-ſhore †. Trajan's expedition into the eaſt was rather a journey than a war. He rambled over the provinces, that Auguſtus had abandoned as not worth keeping, and others that had nothing to defend them, but ill-armed and unwarlike barbarians. Upon the whole matter, he ſeems to have been led only by curioſity; and the vanity of looking upon them as conqueſts appears in their being relinquiſhed as ſoon as gained. Britain was eaſily taken from a naked and unſkilful, though a brave people; hardly kept, and ſhamefully loſt. But ſuppoſing the emperors had made greater wars than the commonwealth, vanquiſhed nations of more valour and ſkill than their Italian neighbours, the Grecians, or Carthaginians, ſubdued and ſlaughtered thoſe that in numbers and ferocity had exceeded the Cimbri, Gauls, and Teutons, encountred captains more formidable than Pyrrhus and Hannibal, it might indeed increaſe the glory of him that ſhould have done it, but could add nothing of honour or advantage to the Roman name. The nobility was extirpated long before, the people corrupted and enſlaved, Italy lay deſolate, ſo that a Roman was hardly to be found in a Roman army, which was generally compoſed of ſuch, as fighting for themſelves or their commander, never thought of any thing leſs than the intereſt of Rome. And as it is impoſſible that what is ſo neglected and betrayed ſhould be durable, that empire, which was acquired by the valour and conduct of the braveſt and beſt diſciplined people of the world, decayed and periſhed in the hands of thoſe abſolute monarchs, who ought to have preſerved it. SECT. 15

3. Peace is deſireable by ſtates that are conſtituted for it, who, contenting themſelves with their own territories, have no deſires of enlarging them: or perhaps it might ſimply deſerve praiſe, if mankind were ſo framed, that a people intending hurt to none could preſerve themſelves. But the world being ſo far of another temper, that no nation can be ſafe without valour and ſtrength, thoſe governments only deſerve to be commended, which by diſcipline and exerciſe increaſe both, and the Roman above all, that excelled in both. Peace therefore may be good in its ſeaſon, and was ſo in Numa's reign. Yet two or three ſuch kings would have encouraged ſome active neighbours to put an end to that aſpiring city, before its territory had extended beyond Fidenae. But the diſcipline, that beſt agreed with the temper and deſigns of a warlike people, being renewed by his brave ſucceſſors, the dangers were put on their enemies; and all of them, the laſt only excepted,

* Suet. in vitâ Calig. § 19. Dion Caſſ. l. 59

† Quaſi perpetraturus bellum, directâ acie in litore oceani, ac baliſtis machiniſque diſpoſitis, nemine gnaro ac opinante quidnam coepturus eſſet, repentè ut conchas legerent, galeaſque et ſinus replerent, imperavit, "ſpolia oceani," vocans, "capitolio palatioque "debita." Et in indicium victoriae altiſſimam turrem excitavit. Ibid. § 46. Dion Caſſ. l. 59. Aur. Vict. de Caligula.

CHAP. II perſiſting in the ſame way, did reaſonably well perform their duty. When they were removed, and the affairs of the city depended no longer upon the temper or capacity of one man, the ends for which the city was conſtituted were vigouroufly purſued, and ſuch magiſtrates annually choſen, as would not long continue in an univerſal peace, till they had gotten the empire to which they aſpired, or were by ill fortune brought to ſuch a weakneſs, as to be no longer able to make war. Both of theſe happened in the ſo much magnified reign of Auguſtus. He found the empire ſo great, that all additions might rationally be rejected, as uſeleſs or prejudicial; and Italy ſo exhauſted, that wars could only be carried on by the ſtrength of ſtrangers. It was time to lie ſtill, when they had no power to act; and they might do it ſafely, while the reputation gained by former victories preſerved them from foreign invaſions. When Craſſus, Pompey, and Caeſar, who had torn the commonwealth into three monarchies, were killed, and the flower of the Roman nobility and people deſtroyed with them, or by them; when Cato's virtue had proved too weak to ſupport a falling ſtate, and Brutus with Caſſius had periſhed in their noble attempt to reſtore their liberty; when the beſt part of the ſenate had been expoſed for a prey to the vulturs and wolves of Theſſaly, and one hundred and thirty of thoſe who deſerved the hatred of tyrants, and had eſcaped the fury of war, had been deſtroyed by the proſcriptions; when neither captains nor ſoldiers remained in the deſolate city; when the tyrant abhorred and feared all thoſe who had either reputation or virtue, and by the moſt ſubtile arts endeavoured ſo to corrupt or break the ſpirits of the remaining people, that they might not think of their former greatneſs, or the ways of recovering it, we ought not to wonder, that they ceaſed from war. But ſuch a peace is no more to be commended, than that which men have in the grave; as in the epitaph of the marquis Trivulcio ſeen at Milan: "Qui nunquam quievit, quieſcit. "Tace*." This peace is in every wilderneſs. The Turks have eſtabliſhed it in the empty provinces of Aſia and Greece. Where there are no men, or if thoſe men have no courage, there can be no war. Our anceſtors the Britons obſerved, that the peace, which in that age the Romans eſtabliſhed in the provinces, conſiſted in the moſt wretched

* The whole of this epitaph, which is on the tomb of Trivulcio, in the church of S. Nazaro, at Milan, is as follows:

IOHANNES IACOBUS MAGNUS TRIVULTIUS, ANTONII FILIUS,
QUI NUNQUAM QUIEVIT, QUIESCIT. TACE.

Theſe lines allude to the bravery and activity of Trivulcio. But to one, unacquainted with his character, they may ſeem to have an air of ridicule, and to intimate, that he was a man of a reſtleſs and troubleſome diſpoſition. Something of this nature might poſſibly be intended by the writer. Trivulcio was a Milaneſe, was baniſhed from his country, was taken into the ſervice of the king of France, and by him made governor of Milan. It is probable, therefore, that his activity was troubleſome to thoſe, who had been concerned in his expulſion. See Wright's Travels, p. 466

ſlavery

ſlavery and ſolitude: "miſerrimam ſervitutem pacem vocant." And in another place, "ſolitudinem faciunt, pacem appellant *." This is the peace the Spaniards ſettled in their dominions of the Weſt-Indies, by the deſtruction of forty millions of ſouls †. The countries were very quiet, when wild beaſts only were left to fight in them, or a few miſerable wretches, who had neither ſtrength nor courage to reſiſt their violence. This was the peace the Romans enjoyed under Auguſtus: a few of thoſe who made themſelves ſubſervient to his pleaſure, and miniſters of the public calamities, were put into a flouriſhing condition; but the reſt pined, withered, and never recovered. If yet our author will have us to think the liberty and people of Rome obliged to Auguſtus, who procured ſuch a peace for them, he ought to remember, that, beſides what they ſuffered in ſettling it, they paid dear for it even in the future. For Italy was thereby ſo weakened, as never to recover any ſtrength or virtue to defend itſelf; but, depending abſolutely upon barbarous nations, or armies compoſed of them, was ravaged and torn in pieces by every invader. SECT. 15

4. That peace only is to be valued, which is accompanied with juſtice; and thoſe governments only deſerve praiſe, who put the power into the hands of the beſt men. This was wholly wanting during the reigns of Auguſtus and his ſucceſſors. The worſt of men gained the ſovereignty by alliance, fraud, or violence, and advanced ſuch as moſt reſembled themſelves. Auguſtus was worſe in the beginning than in the latter part of his reign. But his bloody and impure ſucceſſor grew every day more wicked as long as he lived. Whilſt he ſat upon the rocks at Caprae ‡ with his Chaldeans, he meditated nothing but luſt or miſchief, and had Sejanus and Macro always ready to execute his deteſtable deſigns. Caligula could find none equal to himſelf in all manner of villainies, but favoured thoſe moſt, who were likeſt to himſelf. Claudius's ſtupidity, drunkenneſs, and ſubjection to the fury of two impudent ſtrumpets and manumiſed ſlaves, proved as hurtful to the empire, as the ſavage fury of his predeceſſor. Though Nero was a monſter, that the world could not bear: yet the raging ſoldiers killed Galba, and gave the empire to Otho, for no other reaſon, than that he had been the companion of his debaucheries, and of all men was thought moſt to reſemble him. With them all evils came in like a flood. And their ſucceſſors finding none ſo bad as themſelves, but the favourites, whores, and ſlaves, that governed them, would ſuffer no virtue to grow up; and filled the city with a baſe, lewd, and miſer-

* Miſeram ſervitutem falsò pacem vocarent. Tacit. Hiſt. l. 4, § 17. — Romani ubi ſolitudinem faciunt, pacem appellant. Id. in vitâ Agric. § 20

The former of theſe paſſages is in the addreſs of Claudius Civilis to the Gauls; the latter is in the ſpeech of Galgacus to the Caledonians.

† Bart. de las Caſas Deſtr. de las Indias. See Purch. Pilg. part 4. b. 8. The Spaniſh friar has certainly exceeded the truth; and Sidney has exaggerated his account of theſe horrible barbarities.

‡ An iſland on the coaſt of Naples, where Tiberius, during the ten laſt years of his reign, kept his infamous court. Suet. in vitâ Tiber. § 40

able

CHAP. II able rabble, that cared for nothing beyond ſtages-plays and bread. Such a people could not be ſeditious; but Rome had been deſolate, if they had not thus filled it. And though this temper and condition of a people may pleaſe our author, yet it was an incurable wound to the ſtate, and in conſequence to the beſt part of the world.

When the city had been burnt by the Gauls, it was ſoon reſtored. The defeats of Ticinum, Trebia, Thraſymene, and Cannae, were repaired with equal or greater victories. The war of the allies ended in their overthrow. The fury of the gladiators was extinguiſhed with their blood. The commonwealth loſt battles, but was never conquered in any war; and in the end triumphed over all that had contended with them. Whilſt liberty continued, it was the nurſe of virtue; and all the loſſes ſuffered in foreign or civil wars were eaſily recovered. But when liberty was loſt, valour and virtue were torn up by the roots, and the Roman power proceeding from them periſhed.

I have not dwelt ſo long upon this point to expoſe the folly of our author, but to ſhew, that the above-mentioned evils did proceed from a permanent cauſe, which will always produce the like effects: and hiſtories teſtify that it has done the ſame in all places. Carthage was rebuilt, after it had been deſtroyed by Scipio, and continued to be a rich city for almoſt a thouſand years; but produced no ſuch men as Amilcar, Aſdrubal, and Hannibal. Cleomenes and Euclidas were the laſt that deſerved to be called Spartans†. Athens never had an eminent man, after it felt the weight of the Macedonian yoke. And Philopoemen was the laſt of the Achaians. Though the commonwealths of Italy in latter ages, having too much applied themſelves to the acquiſition of money, wanted that greatneſs of ſpirit, which had reigned in their anceſtors, yet they have not been without valour and virtue. That of Piſa was famous for power at ſea, till the Genoeſe overthrew it. Florence had a brave nobility, and a ſtout people. Arezzo, Piſtoia, Cortona, Sienna, and other ſmall towns of Tuſcany, were not without ſtrength, though for the moſt part unhappily exerciſed in the factions of Gibelines and Guelphs, Neri and Bianchi, which divided all Italy.‡ But ſince the introduction of Filmer's divine abſolute monarchy, all power, virtue, reputation, and ſtrength, are utterly periſhed from among them, and no man dares to oppoſe the public miſchiefs. They uſually decide private quarrels by aſſaſſination or poiſon; and in other reſpects they enjoy the happineſs of that peace, which is always found within empty walls, and deſolated countries. And if this be according to the laws of God and nature, it cannot be denied, that weakneſs, baſeneſs, cowardice, deſtruction, and deſolation, are ſo likewiſe. Theſe are the bleſſings our well-natured author would confer upon us: but if they were to be eſteemed ſo, I cannot tell why thoſe that felt them com-

† Cleomenes aſſociated his brother Euclidas with him in the kingdom of Sparta, about the year A. C. 226

‡ See Heyl. Coſm. p. 131. Sigon. Hiſt. Ital. l. 11, etc.

plained

plained ſo much of them. Tacitus, reciting what paſſed in his time, SECT. 15
and ſomewhat before, for want of a chriſtian ſpirit, in the bitterneſs of his ſoul, ſays, " nec unquam atrocioribus populi Romani cladibus, magiſ-
" que juſtis judiciis probatum eſt, non eſſe curae deis ſecuritatem noſtram,
" eſſe *ultionem* *." Some thought that no puniſhments could be juſtly deſerved by a people that had ſo much favoured virtue; others, that even the gods they adored envied their felicity and glory; but all confeſſed they were fallen, from the higheſt pitch of human happineſs, into the loweſt degree of infamy and miſery. And our author being the firſt that ever found they had gained by the change, we are to attribute the diſcovery of ſo great a ſecret to the excellency of his wiſdom. If, ſuſpending my judgment in this point, till it be proved by better authority than his word, I in the mean time follow the opinion of thoſe who think ſlavery does naturally produce meanneſs of ſpirit, with its worſt effect, flattery, which Tacitus calls " foedum ſervitutis crimen †," I muſt believe, that the impudence of carrying it to ſuch a height, as to commend nothing in the moſt glorious liberty, that made the moſt virtuous people in the world, but the ſhortneſs of its continuance, and to prefer the tyranny of the baſeſt of men, or worſt of monſters, is peculiar to Filmer; and that their wickedneſs, which had never been equalled, is ſurpaſſed by him, who recommends, as the ordinance of God, the principles that certainly produce them.

But, ſays our author, " though Rome for a while was miraculouſly
" upheld in glory by a greater prudence than her own, yet in a ſhort
" time, after manifold alterations, ſhe was ruined by her own hands."
But it is abſurd to ſay, that the overthrow of a government, which had nothing of good in it, can be a ruin; or that the glory in which it continued had nothing of good in it; and moſt of all, that it could be ruined by no hands but its own, if that glory had not been gained, and immediately or inſtrumentally ſupported by ſuch virtue and ſtrength, as is worthy to be preferred before all other temporal happineſs, and does ever produce it. This ſhews that liars ought to have good memories. But paſſing over ſuch fooliſh contradictions, I deſire to know, how that " *prudence, greater than her own*" (which, till I am better informed, I muſt think to be inſeparably united to juſtice and goodneſs) came miraculouſly to ſupport a government, which was not only evil in itſelf, as contrary to the laws of God and nature, but ſo perpetually bent againſt that monarchy, which he ſays is according to them, as to hate all monarchs, deſpiſe all that would live under them, deſtroy as many of them as came within its reach, and make a law, by which any man was authorized to kill him, who ſhould endeavour to ſet up this divine power in its place ‡. Moreover, no human prudence pre-

* Tacit. Hiſt. l. 1, § 3. † Ibid. l. 1, § 1.

‡ Ανευ κρισεως κτειναι τον βουλομενον τυραννειν . . . . ει τις επιχειροιη τυραννειν, Σολων μεν ολουτι την δικην επιτιθησιν, ὁ δε Ποπλικολας και προ της κρισεως ανελειν διδωσι. Plut. in vitâ Popl. et compar. Solonis et Poplicolae. Dionyſ. Hal. l. 5, c. 19.

CHAP. II ſerved the Roman glory but their own: the others directly ſet themſelves to oppoſe it, and the moſt eminent fell under it. We know of no prudence ſurpaſſing the human, unleſs it be the divine: but the divine prudence did never miraculouſly exert itſelf, except to bear witneſs to the truth, and to give authority to thoſe that announced it. If therefore the glory of this popular government was miraculouſly ſupported by a more than human prudence, it was good in itſelf; the miracles done in favour of it did teſtify it, and all that our author ſays againſt it is falſe and abominable.

If I lay aſide the word "miraculous," as put in by chance, it will be hard to know how God, who in the uſual courſe of his providence guides all things by ſuch a gentle and undiſcerned power, that they ſeem to go on of themſelves, ſhould give ſuch virtue to this popular government, and the magiſtrates bred up under it, that the greateſt monarchs of the earth were as duſt before them, unleſs there had been an excellency in their diſcipline, far ſurpaſſing that of their enemies; or how that can be called ill in its principle, and ſaid to comprehend no good, which God did ſo glorioufly ſupport, and no man was ever able to reſiſt. This cannot be better anſwered than by our author's citation, "*fuis et ipſa Roma viribus ruit**." That city, which had overthrown the greateſt powers of the world, muſt, in all appearance, have laſted for ever, if their virtue and diſcipline had not decayed, or their forces been turned againſt themſelves. If our author therefore ſay true, the greateſt good that ever befel the Romans, was the decay of their virtue and diſcipline; and the turning of their own arms againſt themſelves was not their ruin, but their preſervation.

When they had brought the warlike nations of Italy into ſubjection, or aſſociation; often repreſſed the fury of the Gauls, Cimbri, and Teutons; overthrown the wealth, power, and wit of Carthage, ſupported by the ſkill, induſtry, and valour of Hannibal, and his brave relations; almoſt extirpated the valiant Spaniards, who would no other way be ſubdued; defeated Philip, Perſeus, Antiochus, Gentius, Syphax, and Jugurtha; ſtruck an awe into Ptolemy; avoided the ſnares and poiſons of Mithridates; followed him in his flights, revenged his treacheries, and carried their victorious arms beyond his conquered kingdoms to the banks of the Tigris; when neither the revolt of their Italian aſſociates, nor the rebellion of their ſlaves led by Spartacus (who in ſkill ſeems to have been equal to Hannibal, and above him in courage) could put a ſtop to their victories; when Greece had been reduced to yield to a virtue, rather than a power, greater than its own, we may well ſay that government was ſupported by a more than human prudence, which led them through virtue to a height of glory, power, and happineſs, that till that day had been unknown to the world, and could never have been ruined, if by the decay of that virtue they had not turned their victorious arms againſt themſelves

* Hor. Epod. 16, v. 2

SECT. 15

ſelves. That city was a giant that could die by no other hand than his own: like Hercules poiſoned and driven into madneſs, after he had deſtroyed thieves, monſters, and tyrants, and found nothing on the earth able to reſiſt him. The wiſeſt of men in antient times, looking upon this as a point of more than human perfection, thought or feigned to think, that he was deſcended from the gods, and at his death received into their number; though perhaps Filmer would prefer a weak, baſe, and effeminate ſlave before him. The matter will not be much different, if we adhere to the fore-mentioned ſimilitude of the athletic habit; for the danger proceeds only from the perfection of it, and he who diſlikes it muſt commend that weakneſs and vice which may periſh, but can never be changed into any thing worſe than itſelf, as thoſe that lie upon the ground can never fall. However, this fall of the Romans, which our author, ſpeaking truth againſt his will, calls their ruin, was into that which he recommends as the ordinance of God: which is as much as to ſay, that they were ruined, when they fell from their own unnatural inventions to follow the law of God, and of nature; that luxury alſo, through which they fell, was the product of their felicity; and that the nations, that had been ſubdued by them, had no other way of avenging their defeats, than by alluring their maſters to their own vices. This was the ſource of their civil wars. When that proud city found no more reſiſtance, it grew wanton *. Honeſt poverty became uneaſy, when honours were given to ill-gotten riches. This was ſo monarchical, that a people infected with ſuch a cuſtom muſt needs fall by it. They, who by vice had exhauſted their fortunes, could repair them only by bringing their country under a government, that would give impunity to rapine. And ſuch as had not virtues to deſerve advancement from the ſenate and people would always endeavour to ſet up a man, that would beſtow the honours due to virtue upon thoſe, who would be moſt abjectly ſubſervient to his will and intereſts. When mens minds are filled with this fury, they ſacrifice the common good to the advancement of their private concernments. This was the temper of Catiline: "luxuria "principi oneroſa, inopia vix privato toleranda †;" and this put him upon that deſperate extremity to ſay, "incendium meum ruinâ exſtin-"guam ‡." Others in the ſame manner being filled with the ſame rage, he could not want companions in his moſt villainous deſigns. It is not long ſince a perſon of the higheſt quality, and no leſs famous for learning and wit, having obſerved the ſtate of England, as it ſtood not many years ago, and that to which it has been reduced ſince the year ſixty, as is thought very much by the advice and example of France, ſaid, that they were now taking a moſt cruel vengeance upon us for all the overthrows received from our anceſtors, by introducing their moſt damnable

* ——————Saevior armis
Luxuria incubuit, victumque ulciſcitur orbem. Juv. Sat. 6, v. 291

† Theſe words are applied by Tacitus to Otho. Hiſt. l. 1, § 21

‡ Sall. Bell. Catil. § 32

maxims,

CHAP. II maxims, and teaching us the worſt of their vices. It is not for me to determine whether this judgment was rightly made or not; for I intend not to ſpeak of our affairs. But all hiſtorians agreeing, that the change of the Roman government was wrought by ſuch means as I have mentioned, and our author acknowledging that change to have been their ruin, as in truth it was, I may juſtly conclude, that the overthrow of that government could not have been a ruin to them, unleſs it had been good; and that the power which did ruin it, and was ſet up in the room of it, cannot have been according to the laws of God or nature; for they confer only that which is good, and deſtroy nothing that is ſo; but muſt have been moſt contrary to that good which was overthrown by it.

SECTION XVI.

THE BEST GOVERNMENTS OF THE WORLD HAVE BEEN COMPOSED OF MONARCHY, ARISTOCRACY, AND DEMOCRACY.

Our author's cavils concerning I know not what vulgar opinions, that democracies were introduced to curb tyranny, deſerve no anſwer; for our queſtion is, whether one form of government be preſcribed to us by God and nature, or we are left according to our own underſtanding, to conſtitute ſuch as ſeem beſt to ourſelves. As for democracy, he may ſay what he pleaſes of it; and I believe it can ſuit only with the convenience of a ſmall town, accompanied with ſuch circumſtances as are ſeldom found. But this no way obliges men to run into the other extreme, inaſmuch as the variety of forms between mere democracy and abſolute monarchy is almoſt infinite. And if I ſhould undertake to ſay, there never was a good government in the world, that did not conſiſt of the three ſimple ſpecies of monarchy, ariſtocracy, and democracy, I think I might make it good. This at the leaſt is certain, that the government of the Hebrews, inſtituted by God, had a judge, the great ſanhedrim, and general aſſemblies of the people. Sparta had two kings, a ſenate of twenty eight choſen men, and the like aſſemblies. All the Dorian cities had a chief magiſtrate, a ſenate, and occaſional aſſemblies. The cities of Ionia, Athens, and others, had an Archon, the Areopagitae, &c. and all judgments concerning matters of the greateſt importance, as well as the election of magiſtrates, were referred to the people. Rome in the beginning had a king and a ſenate, while the election of kings, and judgments upon appeals, remained in the people; afterwards conſuls repreſenting kings, and veſted with equal power, a more numerous ſenate, and more frequent meetings of the people. Venice has at this day a duke, the ſenate of the pregadi, and the great aſſembly of the nobility, which is the whole city, the reſt of the inhabitants being only "incolae," not "cives;" and thoſe of the other cities or countries are their ſubjects, and

do

SECT. 16

do not participate of the government. Genoa is governed in like manner; Luca not unlike to them. Germany is at this day governed by an emperor, the princes or great lords in their ſeveral precincts; the cities by their own magiſtrates, and by general diets, in which the whole power of the nation reſides, and where the emperor, princes, nobility, and cities, have their places in perſon, or by their deputies. All the northern nations, which, upon the diſſolution of the Roman empire, poſſeſſed the beſt provinces that had compoſed it, were under that form which is uſually called the Gothic polity. They had king, lords, commons, diets, aſſemblies of eſtates, cortes *, and parliaments, in which the ſovereign powers of thoſe nations did reſide, and by which they were exerciſed. The like was practiſed in Hungary, Bohemia, Sweden, Denmark, Poland. And if things are changed in ſome of thoſe places within theſe few years, they muſt give better proofs of having gained by the change, than are yet ſeen in the world, before I think myſelf obliged to change my opinion.

Some nations, not liking the name of king, have given ſuch a power as kings enjoyed in other places to one or more magiſtrates, either limited to a certain time, or left to be perpetual, as beſt pleaſed themſelves: others, approving the name, made the dignity purely elective. Some have in their elections principally regarded one family as long as it laſted: others conſidered nothing but the fitneſs of the perſon, and reſerved to themſelves a liberty of taking where they pleaſed. Some have permitted the crown to be hereditary, as to its ordinary courſe; but reſtrained the power, and inſtituted officers to inſpect the proceedings of kings, and to take care, that the laws were not violated. Of this ſort were the Ephori of Sparta, the maires du palais, and afterwards the conſtable of France, the juſticiar‡ in Arragon, the reichs-hofmeiſter in Denmark †, the high-ſteward in England; and in all places ſuch aſſemblies as are before-mentioned under ſeveral names, who had the power of the whole nation. Some have continued long, and it may be always in the ſame form: others have changed it. Some being incenſed againſt their kings, as the Romans exaſperated by the villainies of Tarquin, and the Tuſcans by the cruelties of Mezentius, aboliſhed the name of king. Others, as Athens, Sicyon, Argos, Corinth, Thebes, and the Latins, did not ſtay for ſuch extremities, but ſet up other governments when they thought it beſt for themſelves; and by this conduct prevented the evils that uſually fall upon nations, when their kings degenerate into tyrants, and a nation is brought to enter into a war by which all may be loſt, and nothing can be gained which was not their own before. The Romans took not this ſalu-

* See an account of the antient Spaniſh Cortes in Geddes's Tracts, Vol. 1

‡ See Heyl. Coſm. p. 288

† Count Uhlefeld was reichs-hofmeiſter, or lord high ſteward of the kingdom of Denmark, about the middle of the laſt century. In the year 1651, he was diſplaced for treaſonable practices, and Joachim Gerſtorf, another nobleman and ſenator, appointed in his room. He continued in this important office till the memorable revolution, which happened in Denmark in the year 1660; when the kingdom was changed from an eſtate, little differing from an ariſtocracy, to an abſolute monarchy, and the office of reichs-hofmeiſter ceaſed of courſe.

CHAP. II tary courſe; the miſchief was grown up before they perceived, or ſet themſelves againſt it. And when the effects of pride, avarice, cruelty, and luſt, were grown to ſuch a height, that they could no longer be endured, they could not free themſelves without a war. And whereas upon other occaſions their victories had brought them increaſe of ſtrength, territory, and glory, the only reward of their virtue in this was, to be delivered from a plague they had unadviſedly ſuffered to grow up among them. I confeſs this was moſt of all to be eſteemed: for if they had been overthrown, their condition under Tarquin would have been more intolerable, than if they had fallen under the power of Pyrrhus or Hannibal; and all their following proſperity was the fruit of their recovered liberty. But it had been much better to have reformed the ſtate after the death of one of their good kings, than to be brought to fight for their lives againſt that abominable tyrant. Our author, in purſuance of his averſion to all that is good, diſapproves this; and, wanting reaſons to juſtify his diſlike, according to the cuſtom of impoſtors and cheats, has recourſe to the ugly terms of a "back-door, ſedition, and faction:" as if it were not as juſt for a people to lay aſide their kings, when they receive nothing but evil, and can rationally hope for no benefit by them, as for others to ſet them up in expectation of good from them. But if the truth be examined, nothing will be found more orderly than the changes of government, or of the perſons and races of thoſe that governed, which have been made by many nations. When Pharamond's grandſon ſeemed not to deſerve the crown he had worn, the French gave it to Meroveus, who more reſembled him in virtue. In proceſs of time when this race alſo degenerated, they were rejected, and Pepin advanced to the throne; and the moſt remote in blood of his deſcendents having often been preferred before the neareſt, and baſtards before the legitimate iſſue, they were at laſt all laid aſide; and the crown remains to this day in the family of Hugh Capet, on whom it was beſtowed upon the rejection of Charles of Lorrain. In like manner the Caſtilians took Don Sancho furnamed the Brave, ſecond ſon to Alphonſo the Wiſe, before Alphonſo el Deſheredado, ſon of the elder brother Ferdinand. The ſtates of Arragon preferred Martin, brother to John the firſt, before Mary his daughter married to the count de Foix, though females were not excluded from the ſucceſſion: and the houſe of Auſtria now enjoys that crown from Joan daughter to Ferdinand. In that and many other kingdoms, baſtards have been advanced before their legitimate brothers. Henry count of Tranſtamara, baſtard to Alphonſo the eleventh king of Caſtile, received the crown, as a reward of the good ſervice he had done to his country againſt his brother Peter the Cruel, without any regard had to the houſe of La Cerda deſcended from Alphonſo el Deſheredado, which to this day never enjoyed any greater honour than that of duke de Medina Celi. Not long after, the Portugueſe, conceiving a diſlike of their king Ferdinand, and his daughter, married to John king of Caſtile, rejected her and her uncle by the father's ſide, and gave the crown to John a knight of Calatrava, and baſtard of an uncle of Ferdinand their king. About the beginning of this age the Swedes

Swedes depoſed their king Sigiſmund, for being a papiſt, and made Charles his uncle king. Divers examples of the like nature in England have been already mentioned. All theſe tranſportations of crowns were acts performed by aſſemblies of the three eſtates in the ſeveral kingdoms; and theſe crowns are to this day enjoyed under titles derived from ſuch as were thus brought in by the depoſition or rejection of thoſe, who according to deſcent of blood had better titles than the preſent poſſeſſors. The acts therefore were lawful and good, or they can have no title at all; and they who made them had a juſt power ſo to do. SECT. 16

If our author can draw any advantage from the reſemblance of regality that he finds in the Roman conſuls, and Athenian Archons, I ſhall without envy leave him the enjoyment of it; but I am much miſtaken, if that do not prove my aſſertion, that thoſe governments "were compoſed of the three ſimple ſpecies." For if the monarchical part was in them, it cannot be denied that the ariſtocratical was in the ſenate or Areopagitae, and the democratical in the people. But he ought to have remembered, that if there was ſomething of monarchical in thoſe governments, when they are ſaid to have been popular, there was ſomething of ariſtocratical and democratical in thoſe that were called regal; which juſtifies my propoſition on both ſides, and ſhews, that the denomination was taken from the part that prevailed. And if this were not ſo, the governments of France, Spain, and Germany, might be called democracies, and thoſe of Rome and Athens monarchies, becauſe the people have a part in the one, and an image of monarchy was preſerved in the other.

If our author will not allow the caſes to be altogether equal, I think he will find no other difference, than that the conſuls and Archons were regularly made by the votes of the conſenting people, and orderly reſigned their power, when the time was expired for which it was given. Whereas Tarquin, Dionyſius, Agathocles, Nabis, Phalaris, Caeſar, and almoſt all his ſucceſſors, whom he takes for complete monarchs, came in by violence, fraud, and corruption, by the help of the worſt men, by the ſlaughter of the beſt, and moſt commonly, when the method was once eſtabliſhed, by that of their predeceſſors, who, if our author ſay true, were fathers of their country. This was the root and foundation of the only government that deſerves praiſe. This is that which ſtamped the divine character upon Agathocles, Dionyſius, and Caeſar, and that had beſtowed the fame upon Manlius, Marius, or Catiline, if they had gained the monarchies they affected. But I ſuppoſe that ſuch as God has bleſſed with better judgment, and a due regard to juſtice and truth, will ſay, that all thoſe, who have attained to ſuch greatneſs, as deſtroys all manner of good in the places where they have ſet up themſelves by the moſt deteſtable villainies, came in by a "back-door;" and that ſuch magiſtrates, as were orderly choſen by a willing people, were the true ſhepherds, who came in by the gate of the ſheepfold, and might juſtly be called the miniſters of God, ſo long as they performed their duty in providing for the good of the nations committed to their charge.

SECTION XVII

GOOD GOVERNMENTS ADMIT OF CHANGES IN THE SUPERSTRUCTURES, WHILE THE FOUNDATIONS REMAIN UNCHANGEABLE.

If I go a ſtep farther, and confeſs the Romans made ſome changes in the outward form of their government, I may ſafely ſay they *did well* in it, and proſpered by it. After the expulſion of the kings, the power was chiefly in the nobility, who had been leaders of the people; but it was neceſſary to humble them, when they began to preſume too much upon the advantages of their birth. And the city could never have been great, unleſs the plebeians, who were the body of it, and the main ſtrength of their armies, had been admitted to a participation of honours. This could not be done at the firſt. They who had been ſo vilely oppreſſed by Tarquin, and haraſſed with making or cleaning ſinks, were not then fit for magiſtracies, or the command of armies. But they could not juſtly be excluded from them, when they had men who in courage and conduct were equal to the beſt of the patricians. And it had been abſurd for any man to think it a diſparagement to him to marry the daughter of one, whom he had obeyed as dictator or conſul, and perhaps followed in his triumph. Rome, that was conſtituted for war, and ſought its grandeur by that means, could never have arrived to any conſiderable height, if the people had not been exerciſed in arms, and their ſpirits raiſed to delight in conqueſts, and willing to expoſe themſelves to the greateſt fatigues and dangers to accompliſh them. Such men as theſe were not to be uſed like ſlaves, or oppreſſed by the unmerciful hand of uſurers. They, who by their ſweat and blood were to defend and enlarge the territories of the ſtate, were to be convinced they fought for themſelves; and they had reaſon to demand a magiſtracy of their own, veſted with a power that none might offend, to maintain their rights, and to protect their families, while they were abroad in the armies. Theſe were the tribunes of the people, made, as they called it, "ſacroſancti," or inviolable †; and the creation of them was the moſt conſiderable change that happened till the time of Marius, who brought all into diſorder. The creation or abolition of military tribunes, with conſular power, ought to be accounted as nothing; for it imported little whether that authority was exerciſed by two, or by five. That of the decemviri was as little to be regarded; they were intended only for one year; and though new ones were created for another, on pretence that the laws they were to frame could not be brought to perfection in ſo ſhort a time, yet they were ſoon thrown down from the power they uſurped, and endeavoured to retain contrary to law. The creation of dictators was no novelty, they were made occaſionally from the beginning, and never otherwiſe than occaſion-

† Liv. l. 2, c. 33. l. 3, c. 55.

ally,

ally, till Julius Caeſar ſubverted all order, and, invading that ſupreme magiſtracy by force, uſurped the right which belonged to all *. This indeed was a mortal change even in root and principle. All other magiſtrates had been created by the people for the public good, and always were within the power of thoſe that had created them. But Caeſar coming in by force, ſought only the ſatisfaction of his own raging ambition, or that of the ſoldiers, whom he had corrupted to deſtroy their country. And his ſucceſſors governing for themſelves, by the help of the like villains, perpetually expoſed the empire to be ravaged by them. But whatever opinion any man may have of the other changes, I dare affirm, there are few or no monarchies (whoſe hiſtories are ſo well known to us as that of Rome) which have not ſuffered changes incomparably greater, and more miſchievous, than thoſe of Rome, whilſt it was free. The Macedonian monarchy fell into pieces immediately after the death of Alexander. It is thought he periſhed by poiſon. His wives, children, and mother, were deſtroyed by his own captains. The beſt of thoſe who had eſcaped his fury, fell by the ſword of each other. When the famous Argyraſpides might have expected ſome reward of their labours, and a little reſt in old age, they were maliciouſly ſent into the eaſt by Antigonus to periſh by hunger and miſery, after he had corrupted them to betray Eumenes. No better fate attended the reſt; all was in confuſion; every one followed whom he pleaſed; and all of them ſeemed to be filled with ſuch a rage, that they never ceaſed from mutual ſlaughters till they were conſumed; and their kingdoms continued in perpetual wars againſt each other, till they all fell under the Roman power. The fortune of Rome was the ſame after it became a monarchy: treachery, murder, and fury, reigned in every part; there was no law but force; he that could corrupt an army, thought he had a ſufficient title to the empire. By theſe means there were frequently three or four, and at one time thirty ſeveral pretenders, who called themſelves emperors: of which number he only reigned that had the happineſs to deſtroy all his competitors; and he himſelf continued no longer, than till another durſt attempt the deſtruction of him and his poſterity. In this ſtate they remained, till the waſted and bloodleſs provinces were poſſeſſed by a multitude of barbarous nations. The kingdoms eſtabliſhed by them enjoyed as little peace or juſtice. That of France was frequently divided into as many parts as the kings of Meroveus or Pepin's race had children, under the names of the kingdoms of Paris, Orleans, Soiſſons, Arles, Burgundy, Auſtraſia, and others. Theſe were perpetually vexed by the unnatural fury of brothers or neareſt relations, while the miſerable nobility and people were obliged to fight upon their fooliſh quarrels, till all fell under the power of the ſtrongeſt. This miſchief was in ſome meaſure cured by a law made in the time of Hugh Capet, that the kingdom ſhould no more be divided. But the appanages,

SECT. 17

* Tacitus ſays of Auguſtus, munia ſenatûs, magiſtratuum, legum in ſe traxit. Ann. l. 1, § 2

CHAP. II as they call them, granted to the king's brothers, with the ſeveral dukedoms and earldoms erected to pleaſe them, and other great lords, produced frequently almoſt as bad effects. This is teſtified by the deſperate and mortal factions, that went under the names of Burgundy and Orleans, Armagnac and Orleans, Montmorency and Guiſe. Theſe were followed by thoſe of the league, and the wars of the Hugonots. They were no ſooner finiſhed by the taking of Rochelle, but new ones began by the intrigues of the duke of Orleans, brother to Lewis the thirteenth, and his mother; and purſued with that animoſity by them, that they put themſelves under the protection of Spain. To which may be added, that the houſes of Condé, Soiſſons, Montmorency, Guiſe, Vendôme, Angoulême, Bouillon, Rohan, Longueville, Rochfoucault, Eſpernon, and I think I may ſay every one that is of great eminency in that kingdom, with the cities of Paris, Bourdeaux, and many others, in the ſpace of theſe laſt fifty years, have ſided with the perpetual enemies of their own country.

Again, other great alterations have happened within the ſame kingdom: the races of kings four times wholly changed; five kings depoſed in leſs than 150 years after the death of Charles the Great; the offices of maire du palais, and conſtable, erected and laid aſide; the great dukedoms and earldoms, little inferior to ſovereign principalities, eſtabliſhed and ſuppreſſed; the deciſion of all cauſes, and the execution of the laws, placed abſolutely in the hands of the nobility, their deputies, ſeneſchals, or vice-ſeneſchals, and taken from them again; parliaments ſet up to receive appeals from the other courts, and to judge ſovereignly in all caſes, expreſly to curb them; the power of theſe parliaments, after they had cruſhed the nobility, brought ſo low, that within the laſt twenty years they are made to regiſter, and give the power of laws, to edicts, of which the titles only are read to them; and the general aſſemblies of eſtates, that from the time of Pepin had the power of the nation in their hands, are now brought to nothing, and almoſt forgotten.

Though I mention theſe things, it is not with a deſign of blaming them, for ſome of them deſerve it not. It ought to be conſidered, that the wiſdom of man is imperfect, and unable to foreſee the effects that may proceed from an infinite variety of accidents, which according to emergencies, neceſſarily require new conſtitutions, to prevent or cure the miſchiefs ariſing from them, or to advance a good that at the firſt was not thought of. And as the nobleſt work in which the wit of man can be exerciſed, were (if it could be done) to conſtitute a government that ſhould laſt for ever, the next to that is to ſuit laws to preſent exigences, and ſo much as is in the power of man to foreſee. He that would reſolve to perſiſt obſtinately in the way he firſt entered upon, or to blame thoſe who go out of that, in which their fathers had walked, when they find it neceſſary, does, as far as in him lies, render the worſt of errors perpetual. Changes therefore are unavoidable; and the wit of man can go no farther than to inſtitute ſuch as in relation to the forces, manners,

nature

nature, religion, or intereſts of a people, and their neighbours, are ſuitable and adequate to what is ſeen, or apprehended to be ſeen. He, who would oblige all nations at all times to take the ſame courſe, would prove as fooliſh as a phyſician who ſhould apply the ſame medicine to all diſtempers, or an architect that would build the ſame kind of houſe for all perſons, without conſidering their eſtates, dignities, the number of their children or ſervants, the time or climate in which they live, and other circumſtances: or, which is, if poſſible, more ſottiſh, a general who ſhould obſtinately reſolve always to make war in the ſame way, and to draw up his army in the ſame form, without examining the nature, number, and ſtrength of his own and his enemies forces, or the advantages and diſadvantages of the ground. But as there may be ſome univerſal rules in phyſic, architecture, and military diſcipline, from which men ought never to depart, ſo there are ſome in politics alſo which ought always to be obſerved: and wiſe legiſlators, adhering to them only, will be ready to change all others, as occaſion may require, in order to the public good. This we may learn from Moſes, who laying the foundation of the law given to the Iſraelites in that juſtice, charity, and truth, which having its root in God is ſubject to no change, left them the liberty of having judges or no judges, kings or no kings, or to give the ſovereign power to high-prieſts or captains, as beſt pleaſed themſelves; and the miſchiefs they afterwards ſuffered proceeded not ſimply from changing, but changing for the worſe. The like judgment may be made of the alterations that have happened in other places. They who aim at the public good, and wiſely inſtitute means proportionable and adequate to the attainment of it, deſerve praiſe; and thoſe only are to be diſliked, who either fooliſhly or maliciouſly ſet up a corrupt private intereſt in one or a few men. Whoever therefore would judge of the Roman changes, may ſee, that in expelling the Tarquins, creating conſuls, abating the violence of uſurers, admitting plebeians to marry with the patricians, rendering them capable of magiſtracies, deducing colonies, dividing lands gained from their enemies, erecting tribunes to defend the rights of the commons, appointing the decemviri to regulate the law, and abrogating their power when they abuſed it, creating dictators and military tribunes with a conſular power, as occaſions required, they acted in the face of the ſun for the good of the public; and ſuch acts having always produced effects ſuitable to the rectitude of their intentions, they conſequently deſerve praiſe. But when another principle began to govern, all things were changed in a very different manner: evil deſigns, tending only to the advancement of private intereſts, were carried on in the dark by means as wicked as the end. If Tarquin, when he had a mind to be king, poiſoned his firſt wife and his brother, contracted an inceſtuous marriage with his ſecond, by the death of her firſt huſband, murdered her father, and the beſt men in Rome, yet Caeſar did worſe. He favoured Catiline, and his villainous aſſociates, bribed and corrupted magiſtrates, conſpired

SECT. 17

CHAP. II with Craſſus and Pompey, continued in the command of an army beyond the time preſcribed by law, and turned the arms, with which he had been entruſted for the ſervice of the commonwealth, to the deſtruction of it, which was rightly repreſented by his dream, that he had conſtuprated his mother. In the like manner, when Octavius, Antonius, and Lepidus, divided the empire, and then quarrelled among themſelves; and when Galba, Otho, Vitellius, and Veſpaſian, ſet up parties in ſeveral provinces, all was managed with treachery, fraud, and cruelty; nothing was intended but the advancement of one man, and the recompence of the villains that ſerved him. And when the empire had ſuffered infinite calamities by pulling down or rejecting one, and ſetting up another, it was for the moſt part difficult to determine who was the worſt of the two; or whether the prevailing ſide had gained or loſt by their victory. The queſtion therefore, upon which a judgment may be made to the praiſe or diſpraiſe of the Roman government, before or after the loſs of their liberty, ought not to be, whether either were ſubject to changes, for neither they nor any thing under the ſun were ever exempted from them; but whether the changes, that happened after the eſtabliſhment of abſolute power in the emperors, did not ſolely proceed from ambition, and tend to the public ruin. Whereas thoſe alterations, related by our author, concerning conſuls, dictators, decemviri, tribunes, and laws, were far more rare, leſs violent, tending to, and procuring the public good, and therefore deſerving praiſe. The like having been proved by the examples of other kingdoms, and being capable of farther confirmation, which on account of brevity I omit, is in my opinion ſufficient to manifeſt, that while the foundation and principle of a government remains good, the ſuperſtructures may be changed according to occaſions, without any prejudice to it.

SECTION XVIII

XENOPHON, IN BLAMING THE DISORDERS OF DEMOCRACIES, FAVOURS ARISTOCRACIES, NOT MONARCHIES.

In the next place our author introduces Xenophon diſallowing popular governments, cites Rome and Athens as places where the beſt men thrived worſt, and the worſt beſt, and condemns the Romans for making it capital to paſs ſentence of death, baniſhment, loſs of liberty, or ſtripes, upon any citizen of Rome. But leſt his fraud in this ſhould be detected, he cites no preciſe paſſage of any author, alleges few examples, and thoſe miſtaken, never tells us what that law was, when made, or where to be found. Whereas I hope to prove, that he has upon the whole matter abominably prevaricated, and advanced things that he knows to be either impertinent or falſe.

1. To

SECT. 18.

1. To this end we are in the firſt place to conſider, whether Xenophon ſpeaks of popular governments ſimply, or comparatively. If ſimply, it is confeſſed, that a pure democracy can never be good, unleſs for a ſmall town: if comparatively, we muſt examine to what he compares it. We are ſure it was not to abſolute monarchy: there was no ſuch thing among the Greeks eſtabliſhed by law. The little tyrants who had enſlaved their own countries, as Jaſon, Pheraeus, Phalaris, and the like, had no pretence to it, and were accounted as the worſt of beaſts: none, but ſuch as in all beſtiality were like to them, did ever ſpeak or think well of them. Xenophon's opinion, in this point, may be eaſily found out by what paſſed between his maſter Plato, and the Sicilian tyrant. The matter will not be mended by referring to his own experience. He had ſeen the vaſt monarchy of Perſia torn in pieces by the fury of two brothers, and more than a million of men brought to fight upon their private quarrel. Inſtead of that order, ſtability, and ſtrength, which our author aſcribes to abſolute monarchy, as the effect of wiſdom and juſtice, he knew, that by filling one man with pride and cruelty, it brought unſpeakable miſeries upon all others, and infected them with all the vices that accompany ſlavery. Men lived like fiſhes; the great ones devoured the ſmall; and as appeared by Tiſſaphernes, Pharnabazus, and others, with whom he had to deal, the worſt and baſeſt were made to be the greateſt. The ſatrapae inſulted over thoſe of meaner rank, with an inſolence and cruelty that equalled the depth of their ſervile ſubmiſſion to their proud maſter. Luxury and avarice reigned in all. Many great nations were made to live for the ſervice of one man, and to foment his vices. This produced weakneſs and cowardice. No number of thoſe ſlaves were able to ſtand againſt a few free Grecians. No man knew this better than Xenophon, who, after the death of Cyrus the younger, and the treacherous murder of Clearchus, and other officers that commanded the Greeks who had ſerved him, made his retreat from Babylon to the Helleſpont with ten thouſand foot, and paſſed over the bellies of all that dared to oppoſe him. He would never have ſpent his life in exciting his countrymen to attempt the conqueſt of Aſia, nor have perſuaded Ageſilaus to put himſelf at the head of the enterprize, if he had thought there was ſuch admirable order, ſtability, and ſtrength, in that monarchy, and in the Greeks nothing but giddineſs of ſpirit, and "ſo much learning as made them ſeditious." Nor could he, being a wiſe man, and an excellent captain, have conceived ſuch a deſign, if he had not by experience found, that liberty inſpired his countrymen with ſuch ſolid virtue, and produced ſuch ſtability, good order, and ſtrength, that with ſmall numbers of them he might hope to overthrow the vain pomp of the barbarians, and to poſſeſs himſelf of their riches, though they could bring more than a hundred men to fight againſt one: which deſign, being interrupted in his time by domeſtic wars, was ſoon after his death accompliſhed by Alexander.

But that Xenophon's meaning may be better underſtood, it is good to conſider, that he ſpoke of ſuch governments as were then in uſe among

CHAP. II the Greeks; which though mixed, yet took their denomination from the prevailing part: ſo that the Dorians, who placed the power chiefly in the hands of a few choſen men, were ſaid to be governed ariſtocratically; and the Ionians, giving more power to the common people, democratically. And he, though an Ionian, either through friendſhip to Ageſilaus, converſation with the Spartans, or for other reaſons beſt known to himſelf, preferred the government of Sparta, or ſome other, which he thought he could frame, and deſired to introduce, before that of Athens; as Cimon, Thucydides, and many other excellent men of that city, are ſaid to have done. And if I acknowledge they were in the right, and that Athens was more ſubject to diſorder, and had leſs ſtability than Sparta, I think it will be of little advantage to abſolute monarchy.

2. The Athenians did baniſh ſome worthy men, and put others to death. But our author, like the devil, never ſpeaking truth, unleſs to turn it into a lye, prevaricates in his report of them. The temporary baniſhment, which they called "oſtraciſm," was without hurt or diſhonour, never accounted as a puniſhment, nor intended for any other end, than to put a ſtop to the too eminent greatneſs of a man, that might prove dangerous to the city: and ſome excellent perſons, who fell under it, were ſoon recalled, and brought home with glory. But I am not ſolicitous whether that reaſon be ſufficient to juſtify it or not. We are upon a general theſis relating to the laws of God and nature; and if the Athenians, by a fancy of their own, did make an imprudent uſe of their liberty, it cannot prejudice the public cauſe. They who make the worſt of it can only ſay, that by ſuch means they, for a time, deprived themſelves of the benefits they might have received from the virtues of ſome excellent men, to the hurt of none but themſelves; and the application of it as an injuſtice done to Themiſtocles is abſolutely falſe. He was a man of great wit, induſtry, and valour, but of uncertain faith, too much addicted to his own intereſt, and held a moſt dangerous correſpondence with the Perſians, who then threatened the deſtruction of Greece. Through envy and ſpite to Ariſtides, and to increaſe his own power, he raiſed dangerous factions in the city. And being ſummoned to render an account of his proceedings, he declined the judgment of his country, fled to its enemies, and juſtly deſerved the ſentence pronounced againſt him *. Some among them were unjuſtly put to death, and above all Socrates. But the people, who, deceived by falſe witneſſes, (againſt whom neither the laws of God or man have ever preſcribed a ſufficient defence) had condemned him, did ſo much lament their crime, when the truth was diſcovered to them, that I doubt whether a more righteous judgment had given better teſtimony of their righteous intentions. But our author's impudence appears, in the higheſt exceſs, in imputing the death of Phocion to the popular ſtate of Athens. Their forces had been broken in the Sicilian war; and the city taken, and the principal men ſlain by Lyſander; the remains of the moſt

* Vide Plut. in vitâ Themiſt.

worthy

worthy deſtroyed by the thirty tyrants ſet up by him; their ill-recovered liberty overthrown by the Macedonians; and the death of Phocion compaſſed by Polyperchon, who with foreign ſoldiers, ſlaves, vagabonds, and outlaws, overpowered the people. SECT. 18.

The proceedings of Rome may be more completely juſtified. Coriolanus was duly condemned. He ſet too great a price upon his own valour, and arrogated to himſelf a power in Rome, which would hardly have been endured in Corioli. His violence and pride over-balanced his ſervices; and he, that would ſubmit to no law, was juſtly driven from the ſociety which could ſubſiſt only by law. Quintius was not unlike him, and Manlius Capitolinus far worſe than either. Their virtues were not to be conſidered when they departed from them. Conſideration ought to be had of human frailty, and ſome indulgence may be extended to thoſe who commit errors, after having done important ſervices; but a ſtate cannot ſubſiſt, which, compenſating evil actions with good, gives impunity to the moſt dangerous crimes, in remembrance of any ſervices whatever. He that does well performs his duty, and ought always to do ſo: juſtice and prudence concur in this. And it is no leſs juſt than profitable, that every action be conſidered by itſelf, and ſuch a reward or puniſhment allotted to it, as in nature and proportion it beſt deſerves.

This, as I ſuppoſe, is enough for their caſes; but relates not to thoſe of Mamercus, Camillus, Livius Salinator, and Aemilius Paulus: their virtue was complete; they were wrongfully ſentenced. The beſt princes, ſenate, or people, that ever was in the world, by the deceit of evil men, may and have been drawn out of the way of juſtice: yet of all the ſtates that are known to us, none was ever ſo free from crimes of malice and wilful injuſtice, none was ever guilty of ſo few errors, as that of Rome; and none did ever give better teſtimonies of repentance, when they were diſcovered, than the Romans did by the veneration they ſhewed to thoſe worthy perſons, and the honours they conferred upon them afterwards. Mamercus was made dictator, to repair the unjuſt mark of infamy laid upon him by the cenſors *. Camillus being recalled from his baniſhment often enjoyed the ſame honour, and died the moſt reverenced man that had ever been in that city †. Livius Salinator was not only made conſul after he had been fined, but the people, as it were to expiate the guilt of having condemned him, ſuffered that aſperity of ſpeech and manners,

* Moeſta civitas fuit, vinci inſueta, odiſſe tribunos, poſcere dictatorem, in eo verti ſpes civitatis . . . A. Cornelius dictatorem Mamercum Aemilium dixit: adeò ſimul fortuna civitatis virtute verâ eguit, ut nihil cenſoria animadverſio effecerit, quo minus regimen rerum ex notatâ indignè domo peteretur. Liv. l. 4, c. 31

† Crimini datum eſt, quod albis equis triumphaſſet, et praedam inique diviſiſſet: die dictâ ab L. Apuleio, tribuno plebis, damnatus, Ardeam conceſſit. Aur. Vict. c. 23. Liv. l. 5, c. 32, 46. l. 6, c. 38. — Fuit M. Furius verè vir unicus in omni fortunâ, princeps pace belloque, priuſquàm exulatum iret: clarior in exilio, vel deſiderio civitatis, quae capta abſentis imploravit opem; vel felicitate, quâ reſtitutus in patriam, ſecum patriam ipſam reſtituit. Par deinde per quinque et viginti annos, tot enim poſtea vixit, titulo tantae gloriae fuit, dignuſque habitus, quem ſecundum à Romulo conditorem urbis Romae ferrent. Ibid. l. 7, c. 1.

which

CHAP. II which might have perſuaded ſuch as had been leſs confident of his virtue, and their own, that he deſired to be revenged, though it were with the ruin of the city *. They dealt in the like manner with Aemilius Paulus, repairing the injury of a fine unduly impoſed †. Their generoſity in leaving the tribunes in the Forum with their accuſation againſt Scipio Africanus, and following him to celebrate an annual ſacrifice in the capitol, in commemoration of his victory againſt Hannibal ‡, was no leſs admirable than the greatneſs of his mind, who thought his virtue ſhould be ſo well known, that no account ought to be expected from him: which was an error proceeding from a noble root, but not to be borne in a well-governed commonwealth. The laws that aim at the public good make no diſtinction of perſons; and none can be exempted from the penalties of them, otherwiſe than by approved innocence, which cannot appear without a trial. He that will not bend his mind to them ſhakes off the equality of a citizen, and uſurps a power above the law, to which no man ſubmits upon any other condition, than that none ſhould be exempted

* M. Salinator conſularis damnatus eſt à populo, quod praedam non aequalitèr diviſerat militibus. Front. Strat. l. 4, c. 1, §45. Aur. Vict. c. 20.—*M. Livius erat multis antè annis ex conſulatu populi judicio damnatus: quam ignominiam adeò aegrè tulerat, ut et rus migrarit;* et per multos annos et urbe, et omni coetu caruerit hominum. Octavo fermè poſt damnationem anno M. Claudius Marcellus, et M. Valerius Laevinus conſules reduxerant eum in urbem, ſed erat veſte obſoletâ, capilloque et barbâ promiſsâ, praeferens in vultu habituque inſignem memoriam ignominiae acceptae. L. Veturius, et P. Licinius cenſores eum tondere, et ſquallorem deponere, et in ſenatum venire, fungique aliis publicis muneribus coegerunt. Sed tum quoque aut verbo aſſentiabatur, aut pedibus in ſententiam ibat, donec cognati hominis eum cauſa M. Livii Macati, cum de famâ ejus ageretur, ſtantem coegit in ſenatu ſententiam dicere. Tum ex tanto intervallo auditus convertit ora hominum in ſe, cauſamque ſermonibus praebuit, "indigno injuriam à populo factam, magnoque id damno "fuiſſe, quòd tam gravi bello nec operâ nec conſilio talis viri uſa reſpublica eſſet . . . egre-"gium par conſulum fore, ſi M. Livium C. Claudio collegam adjunxiſſent." Unus eam rem in civitate, is cui deferebatur honos, abnuebat: "levitatem civitatis accuſans: ſorditati "rei non miſertos, candidam togam invito offerre; eodem honores, poenaſque congeri: ſi "bonum virum ducerent, quid ita pro malo ac noxio damnaſſent; ſi noxium comperiſſent, "quid ita malè credito priore conſulatu alterum crederent." Haec taliaque arguentem, et querentem caſtigabant patres; et "M. Furium memorantes revocatum de exilio, patriam "pulſam ſede ſuâ reſtituiſſe; ut parentum ſaevitiam, ſic patriae, patiendo ac ferendo lenien-"dam eſſe." Adnixi omnes cum C. Claudio M. Livium conſulem fecerunt. Liv. l. 27, c. 36. l. 29, c. 37

† Nobilitas L. Aemilium Paulum, qui cum M. Livio conſul fuerat, et damnatione collegae, et ſuâ propè ambuſtus evaſerat, infeſtum plebi, diu ac multùm recuſantem ad petitionem compellit. Is proximo comitiali die, concedentibus omnibus, qui cum Varrone certaverant, parque magis in adverſando, quàm collega datur conſuli. Liv. l. 22, c. 35

This was L. Aemilius Paulus, who was killed in the battle at Cannae. The accuſation, which Livy ſpeaks of, was, that he and his collegue, Livius Salinator, had made a partial diſtribution of the ſpoils which they had taken from the Illyrians, and had illegally applied ſome part of them to their own private uſe. Salinator was condemned; but Aemilius was acquitted. If Sidney alludes to this incident, he ſeems to have committed a ſmall miſtake, in ſaying, that a fine was impoſed upon Aemilius. — We do not find that any penalty of this kind was ever inflicted on the ſon of this unfortunate commander, the celebrated L. Aemilius Paulus Macedonicus.

‡ Ab roſtris in capitolium aſcendit; ſimul ſe univerſa concio avertit, et ſecuta Scipionem eſt; adeò ut poſtremò ſcribae viatoreſque tribunos relinquerent: nec cum iis praeter ſervilem comitatum, et praeconem, qui reum ex roſtris citabat, quiſquam eſſet. Liv. l. 38, c. 51

from

from the power of it. And Scipio being the firſt Roman that thus diſdained the power of the law, I do not know whether the prejudice, brought upon the city by ſo dangerous an example, did not outweigh all the ſervices he had done. Nevertheleſs the people contented with his retirement to his own houſe, and afterwards convinced of his innocence, would probably, if he had not died in a few months, have brought him back with the honours that fate reſerved for his aſhes. SECT. 18

I do not at preſent remember any other eminent men, who can be ſaid in any reſpect to have "thrived ill," while the people and ſenate of Rome acted freely. And if this be not ſufficient to clear the point, I deſire to know the names of thoſe "worſt men that thrived beſt." If they may have been judged to thrive, who were frequently advanced to the ſupreme magiſtracies, and enjoyed the chief honours, I find no men ſo eminent as Brutus, Publicola, Quintius Cincinnatus, and Capitolinus, the two Fabii ſurnamed Maximi, Corvinus, Torquatus, Camillus, and the like. And if theſe were the worſt men that Rome produced in thoſe ages, valour, wiſdom, induſtry in the ſervice of their country, and a moſt entire love to it, muſt have been the worſt of qualities: and I preſume our author may have thought them ſo, ſince they were invincible obſtacles to the introduction of that divine monarchy, which Appius Claudius the decemvir, Manlius Capitolinus, Spurius Caſſius, Spurius Moelius, and ſome others, may be thought to have affected.

However, theſe inſtances are not to be underſtood as they are ſimply in themſelves, but comparatively with what has happened in other places, under abſolute monarchies: for our inquiry is not after that which is perfect, well knowing that no ſuch thing is found among men; but we ſeek that human conſtitution, which is attended with the leaſt, or the moſt pardonable inconveniences. And if we find, that in the ſpace of three hundred years, while the ſenate, people, and legally created magiſtrates, governed Rome, not one worthy man was put to death, not above five or ſix condemned to fines by the beguiled people, and thoſe injuries repaired by the moſt honourable ſatisfaction that could be given, ſo that virtue continued ever flouriſhing; that the beſt men which could be found were put into the chief commands, and the city filled with more excellent men, than were ever known to be in any other place: on the other ſide, if the emperors, ſo ſoon as the government was changed, made it their buſineſs to deſtroy the beſt, and ſo far ſucceeded in their deſign, that they left none; and never failed to advance the worſt, unleſs it fell out as to queen Catharine de Medicis, who is ſaid never to have done any good but by miſtake, and ſome few may have proved better than was intended, it will appear, that our author's aſſertions are in the utmoſt degree falſe. Of this we need no better witneſs than Tacitus. The civil wars, and the proſcriptions, upon which he touches, are juſtly to be attributed to that monarchy which was then ſetting up, the only queſtion being, who ſhould be the monarch, when the liberty was already overthrown. And if any eminent men eſcaped, it was much againſt the will of thoſe who had uſurped the power.

CHAP. II power. He acknowledges his hiſtories to be a continued relation of the ſlaughter of the moſt illuſtrious perſons, and that in the times of which he writes, virtue was attended with certain deſtruction. After the death of Germanicus and his eldeſt children, Valerius Aſiaticus, Seneca, Corbulo, and an infinite number more, who were thought moſt to reſemble them, found this to be true at the expence of their lives. Nero, in purſuance of the ſame tyrannical deſign, murdered Helvidius and Thraſea, that he might "tear up virtue by the roots*." Domitian ſpared none willingly that had either virtue or reputation; and though Trajan, with perhaps ſome others, might grow up under him in the remote provinces, yet no good man could eſcape, who came under his eye, and was ſo eminent as to be obſerved by him. While theſe, who were thought to be the beſt men that appeared in the Roman empire, did thrive in this manner, Sejanus, Macro, Narciſſus, Pallas, Tigellinus, Icetus, Vinius, Laco, and others like to them, had the power of the empire in their hands. Therefore, unleſs mankind have been miſtaken to this day, and theſe, who have hitherto been accounted the worſt of villains, were indeed the beſt men in the world, and thoſe deſtroyed by them, who are thought to have been the beſt, were truly the worſt, it cannot be denied, that the beſt men, during the liberty of Rome, thrived beſt; that good men ſuffered no indignity, unleſs by ſome fraud impoſed upon the well-meaning people; and that ſo ſoon as the liberty was ſubverted, the worſt men thrived beſt. The beſt men were expoſed to ſo many calamities and ſnares, that it was thought a matter of great wonder to ſee a virtuous man die in his bed. And if the account were well made, I think it might appear, that every one of the emperors before Titus ſhed more noble and innocent blood, than Rome and all the commonwealths in the world have done, while they had the free enjoyment of their own liberty. But if any man in favour of our author ſeek to diminiſh this vaſt diſproportion between the two differing ſorts of government, and impute the diſorders that happened in the time of the Gracchi, and others, while Rome was ſtruggling for her liberty, to the government of a commonwealth, he will find them no more to be compared with thoſe that fell out afterwards, than the railings of a turbulent tribune againſt the ſenate, to the villainies and cruelties that corrupted and diſpeopled the provinces from Babylon to Scotland. And whereas the ſtate never failed to recover from any diſorders, as long as the root of liberty remained untouched, and became more powerful and glorious than ever, even after the wars of Marius and Sylla; when that was deſtroyed, the city fell into a languiſhing condition, and grew weaker and weaker, till that, and the whole empire, were ruined by the barbarians.

3. Our author, to ſhew that his memory is as good as his judgment, having repreſented Rome in the times of liberty as a public ſlaughter-houſe, ſoon after blames the clemency of their laws. Whereas it is impoſſible,

* Trucidatis tot inſignibus viris, ad poſtremum Nero virtutem ipſam exſcindere concupivit, interfecto Bareâ Sorano, et Thraſeâ Paeto, olim utriſque infenſus. Tacit. Ann. l. 16, § 21

that the ſame city could at the ſame time be guilty of thoſe contrary extremities; and no leſs certain, that it was perfectly free from them both. His aſſertion ſeems to be grounded upon Caeſar's ſpeech, related by Salluſt, in favour of Lentulus and Cethegus, companions of Catiline. But though Caeſar endeavoured to put the beſt colour he could upon their cauſe, it ſignified only thus much, that a Roman citizen could not be put to death, without being heard in public: which law will diſpleaſe none, that in underſtanding and integrity may not be compared to Filmer, and his followers. It is a folly to extend it farther: for it is eaſily proved, that there was always a power of putting citizens to death, and that it was exerciſed when occaſion required. The laws were the ſame in the time of the kings, and when that office was executed by conſuls, excepting ſuch changes as are already mentioned. The "lex perduellionis," cited by Livy in the caſe of Horatius, who had killed his ſiſter, continued in force from the foundation to the end of that government: the condemnation was to death, the words of the ſentence theſe, "Caput obnubito; infelici "arbori reſte ſuſpendito; verberato vel intra pomoerium, vel extra pomoeri-"um *." He was tried by this law upon an appeal made to the people by his father, and abſolved "admiratione magis virtutis quàm jure cauſae †;" which could not have been, if by the law no citizen might be put to death. The ſons of Brutus were condemned to death in public, and executed with the Aquilii and Vitellii their companions in the ſame conſpiracy ‡. Manlius Capitolinus was put to death by the vote of the people §; Titus Manlius by the command of his father Torquatus, for fighting without order ¶. Two legions were decimated by Appius Claudius **. Spurius Moelius, refuſing to appear before the dictator, was killed by Servilius Ahala general of the horſe, and pronounced "jure caeſum ††." Quintus Fabius was by Papirius the dictator condemned to die, and could not have been ſaved, but by the interceſſion and authority of the people ‡‡. If this be not ſo, I deſire to be SECT. 18

* Liv. l. 1, c. 26 † Ibid. ‡ Liv. l. 2, c. 4, 5

§ In campo Martio cum centuriatim populus citaretur, et reus ad capitolium manus tendens, ab hominibus ad deos preces avertiſſet, apparuit tribunis, niſi oculos quoque hominum liberaſſent à tanti memoriâ decoris, nunquam fore in praeoccupatis beneficio animis vero crimini locum. Ita productâ die, in Petelinum lucum, extra portam Flumentanam, undè conſpectus in capitolium non eſſet, concilium populi indictum eſt. Ibi crimen valuit, et obſtinatis animis triſte judicium, inviſumque etiam judicibus factum . . . Damnatum tribuni de ſaxo Tarpeio dejecerunt. Id. l. 6, c. 20

¶ Apud majores noſtros, A. Manlius Torquatus bello Gallico filium ſuum, quod is contra imperium in hoſtem pugnaverat, necari juſſit. Sall. Bell. Catil. § 56. Liv. l. 8, c. 7

** Appius, advocatâ concione, invectus haud falſò in proditorem exercitum militaris diſciplinae, deſertorem ſignorum: "ubi ſigna, ubi arma eſſent," ſingulos rogitans, inermes milites, ſigno amiſſo ſigniferos, ad hoc centuriones duplicarioſque qui reliquerant ordines, virgis caeſos ſecuri percuſſit. Caetera multitudo ſorte decimus quiſque ad ſupplicium lecti. Liv. l. 2, c. 59

†† Dictator tumultuantem multitudinem incertâ exiſtimatione facti ad concionem vocari juſſit, et Moelium jure caeſum pronunciavit: etiam ſi regni crimine inſons fuerit, qui vocatus à magiſtro equitum ad dictatorem non veniſſet. Liv. l. 4, c. 15

‡‡ Lucius Papirius, à velocitate Curſor, cùm dictatorem ſe adverſis ominibus contra Samnites profectum eſſe ſenſiſſet, ad auſpicia repetenda Romam regreſſus, edixit Fabio Rutiliano,

CHAP. II be informed what the ſenate meant by condemning Antiſtius Soſianus, in the reign of Nero, to be put to death "more majorum *," if "more "majorum" no citizen might be put to death? Why the conſuls, dictators, military tribunes, decemviri, cauſed rods and axes to be carried before them, as well within as without the city, if no uſe was to be made of them? Were they only vain badges of a power never to be executed; or upon whom was the ſupreme power, ſignified by them, to be exerciſed within and without the city, if the citizens were not ſubject to it? It is ſtrange that a man, who had ever read a book of matters relating to the affairs of Rome, ſhould fancy theſe things; or hope to impoſe them upon the world, if he knew them to be fooliſh, falſe, and abſurd. But of all the marks of a moſt ſupine ſtupidity that can be given by a man, I know no one equal to this of our author, who in the ſame clauſe, wherein he ſays no citizen could be put to death or baniſhed, adds, that the magiſtrates were upon pain of death forbidden to do it; for if a magiſtrate might be put to death for baniſhing a citizen, or cauſing him to be executed, a citizen might be put to death: for the magiſtrates were not ſtrangers, but citizens. If this was not ſo, he muſt think, that no crime was capital, but the puniſhment of capital crimes; or that no man was ſubject to the ſupreme power, but he that was created for the execution of it. Yet even this will not ſtop the gap; for the law that condemned the magiſtrate to die could be of no effect, if there were no man to execute it; and there could be none if the law prohibited it, or if he who did it was to die for it: and this goes on to infinity. For if a magiſtrate could not put a citizen to death, I ſuppoſe a citizen could not put to death a magiſtrate; for he alſo is a citizen. So that upon the whole matter we may conclude, that malice is blind, and that wickedneſs is madneſs. It is hard to ſay more in praiſe of popular governments than will reſult from what he ſays againſt them: his reproaches are praiſes, and his praiſes reproaches. As government is inſtituted for the preſervation of the governed, the Romans were ſparing of blood, and are wiſely commended by Livy for it: "glo- "riari licet, nulli gentium mitiores placuiſſe poenas †;" which gentleneſs will never be blamed, unleſs by thoſe who are pleaſed with nothing ſo much as the fury of thoſe monſters, who, with the ruin of the beſt part of mankind, uſurped the dominion of that glorious city. But if the Romans were gentle in puniſhing offences, they were alſo diligent in preventing them: the excellence of their diſcipline led the youth to virtue, and the honours they received for recompence confirmed them in it. By

liano, quem exercitui imponebat, ne manum cum hoſte conſereret. Sed ille opportunitate ductus, pugnavit. Reverſus Papirius ſecuri eum ferire voluit: ille in urbem confugit; nec ſupplicem tribuni tuebantur. Dein pater lachrymis, populus precibus veniam impetrârunt. Aur. Vict. c. 31. Liv. l. 8, c. 30—35.

* Antiſtius praetor probroſa adverſus principem carmina factitavit, vulgavitque celebri convivio dum apud Oſtorium Scapulam epulatur. Exin à Coſſutiano Capitone majeſtatis delatus eſt . . . Cenſuit Junius Marullus, conſul deſignatus, adimendam reo praeturam, necandumque more majorum. Tacit. Ann. l. 14, § 48.

† Liv. l. 1, c. 28.

theſe

theſe means many of them became laws to themſelves; and they, who were not the moſt excellent, were yet taught ſo much of good, that they had a veneration for thoſe they could not equal, which not only ſerved to incite them to do well according to their talents, but kept them in ſuch awe, as to fear incurring their ill opinion by any bad action, as much as by the penalty of the law. This integrity of manners made the laws as it were uſeleſs; and, while they ſeemed to ſleep, ignorant perſons thought there were none. But their diſcipline being corrupted by proſperity, thoſe vices came in which made way for the monarchy; and wickedneſs being placed in the throne, there was no ſafety for any but ſuch as would be of the ſame ſpirit, and the empire was ruined by it. SECT. 19

SECTION XIX

THAT CORRUPTION AND VENALITY, WHICH IS NATURAL TO COURTS, IS SELDOM FOUND IN POPULAR GOVERNMENTS.

Our author's next work is, with that modeſty and truth which is natural to him, to impute corruption and venality to commonwealths. He knows that monarchies are exempted from thoſe evils; and has diſcovered this truth from the integrity obſerved in the modern courts of England, France, and Spain, or the more antient ones of Rome and Perſia. But after many falſhoods in matter of fact, and miſrepreſentations of that which is true, he ſhews, that the corruption, venality, and violence he blames were neither the effects of liberty, nor conſiſtent with it. Cn. Manlius, who with his Aſiatic army brought in the luxury that gave birth to thoſe miſchiefs, did probably follow the looſeneſs of his own diſpoſition: yet the beſt and wiſeſt men of that time knew from the beginning, that it would ruin the city, unleſs a ſtop were put to the courſe of that evil. But they who had ſeen kings under their feet, and could no longer content themſelves with that equality which is neceſſary among citizens, fomented it as the chief means to advance their ambitious deſigns. Though Marius was rigid in his nature, and cared neither for money, nor ſenſual pleaſures, yet he favoured thoſe vices in others, and is ſaid to be the firſt that made uſe of them to his advantage. Catiline was one of the lewdeſt men in the world, and had no other way of compaſſing his deſigns, than by rendering others as bad as himſelf. Caeſar ſet up his tyranny by ſpreading that corruption farther than the others had been able to do. And though he, Caligula, and ſome others were ſlain, yet the beſt men found it as impoſſible to reſtore liberty to the city, when it was corrupted *, as the worſt had done to ſet up a tyranny, while the integrity of their manners did continue. Men have a ſtrange propenſity

* See p. 110

CHAP. II to run into all manner of exceſſes, when plenty of means invite, and there is no power to deter; of which the ſucceeding emperors took advantage. And knowing that even their ſubſiſtence depended upon it, they thought themſelves obliged by intereſt, as well as inclination, to make honours and preferments the rewards of vice. Though it be not always true in the utmoſt extent, that all men follow the example of the king, yet it is of very great efficacy. For though ſome are ſo good, that they will not be perverted, and others ſo bad, that they will not be corrected, yet a great number does always follow the courſe that is favoured and rewarded by thoſe that govern. There were idolaters doubtleſs among the Jews in the days of David and Hezekiah; but they proſpered better under Jeroboam and Ahab. England was not without papiſts in the time of queen Elizabeth; but they thrived much better during the reign of her furious ſiſter. Falſe witneſſes and accuſers had a better trade under Tiberius, who called them "cuſtodes legum*," than under Trajan, who abhorred them. And whores, players, fidlers, with other ſuch vermin, abounded certainly more when encouraged by Nero, than when deſpiſed by Antoninus and Marcus Aurelius. But as every one of theſe manifeſted what he was, by thoſe he favoured or puniſhed, and a man can only be judged by his principles or practices, he that would know whether abſolute monarchies, or mixed governments, do moſt foment or puniſh venality and corruption, ought to examine the principle and practice of both, and compare them one with the other.

As to the principle, the above-mentioned vices may be profitable to private men; but they can never be ſo to the government, if it be popular or mixed. No people was ever the better for that which renders them weak or baſe. And a duly created magiſtracy, governing a nation with their conſent, can have no intereſt diſtinct from that of the public, or deſire to diminiſh the ſtrength of the people, which is their own, and by which they ſubſiſt. On the other ſide, the abſolute monarch, who governs for himſelf, and chiefly ſeeks his own preſervation, looks upon the ſtrength and bravery of his ſubjects as the root of his greateſt danger, and frequently deſires to render them weak, baſe, corrupt, and unfaithful to each other, that they may neither dare to attempt the breaking of the yoke he lays upon them, nor truſt one another in any generous deſign for the recovery of their liberty. So that the ſame corruption which preſerves ſuch a prince, if it were introduced by a people, would weaken, if not utterly deſtroy them.

Again, all things have their continuance from a principle in nature ſuitable to their original. All tyrannies have had their beginnings from corruption. The hiſtories of Greece, Sicily, and Italy ſhew, that all thoſe who made themſelves tyrants in ſeveral places did it by the help of the worſt, and the ſlaughter of the beſt. Men could not be made ſubſer-

* Caeſar "irritas leges, rempublicam in praecipiti, conqueſtus eſt: ſubverterent potiùs "jura, quàm cuſtodes eorum amoverent." Tacit. Ann. l. 4, § 30

vient to their luſts, while they continued in their integrity; ſo that SECT. 19
their buſineſs was to deſtroy thoſe who would not be corrupted. They muſt therefore endeavour to maintain or increaſe the corruption by which they attain their greatneſs. If they fail in this point, they muſt fall, as Tarquin, Piſiſtratus, and others have done. But if they ſucceed ſo far, that the vicious part do much prevail, the government is ſecure, though the prince may be in danger. And the ſame thing does in a great meaſure accidentally conduce to the ſafety of his perſon. For they who for the moſt part are the authors of great revolutions, not being ſo much led by a particular hatred to the man, as by a deſire to do good to the public, ſeldom ſet themſelves to conſpire againſt the tyrant, unleſs he be altogether deteſtable and intolerable, if they do not hope to overthrow the tyranny.

The contrary is ſeen in all popular and well-mixed governments: they are ever eſtabliſhed by wiſe and good men, and can never be upheld otherwiſe than by virtue: the worſt men always conſpiring againſt them, they muſt fall, if the beſt have not power to preſerve them. Where-ever therefore a people is ſo governed, the magiſtrates will obviate afar off the introduction of vices, which tend as much to the ruin of their perſons and government, as to the preſervation of the prince and his. This is evidenced by experience. It is not eaſy to name a monarch that had ſo many good qualities as Julius Caeſar, till they were extinguiſhed by his ambition, which was inconſiſtent with them. He knew, that his ſtrength lay in the corruption of the people, and that he could not accompliſh his deſigns without increaſing it. He did not ſeek good men, but ſuch as would be for him; and thought none ſufficiently addicted to his intereſts, but ſuch as ſtuck at the performance of no wickedneſs that he commanded. He was a ſoldier according to Caeſar's heart, who ſaid,

" Pectore ſi fratris gladium, juguloque parentis,
" Condere me jubeas, gravidaeve in viſcera partu
" Conjugis, invitâ peragam tamen omnia dextrâ. *"

And leſt ſuch as were devoted to him ſhould grow faint in villainy, he induſtriouſly inflamed their fury:

——" Vult omnia Caeſar
" A ſe ſaeva peti, vult praemia Martis amari. †"

Having ſpread this poiſon among the ſoldiers, his next work was, by corrupting the tribunes, to turn that power to the deſtruction of the people, which had been erected for their preſervation; and pouring the treaſures he had gained by rapine in Gaul into the boſom of Curio, he made him an inſtrument of miſchief, who had been a moſt eminent ſupporter of the laws. Though he was thought to have affected the glory of ſparing Cato, and with trouble to have found, that he deſpiſed life when it was to be accounted his gift; yet in ſuſpecting Brutus and Caſſius, he ſhewed he could not believe, that virtuous men who loved their country could be his friends. Such as carry on the like deſigns with leſs valour, wit, and

* Luc. Phar. l. 1, v. 376 † Ibid. l. 5, v. 307

generoſity

CHAP. II generoſity of ſpirit, will always be more bitterly bent to deſtroy all that are good, knowing, that the deformity of their own vices is rendered moſt manifeſt, when they are compared with the good qualities of thoſe who are moſt unlike them; and that they can never defend themſelves againſt the ſcorn and hatred they incur by their vices, unleſs ſuch a number can be infected with the ſame, and made to delight in the recompences of iniquity that foment them, as may be able to keep the reſt of the people in ſubjection.

The ſame thing happens, even when the uſurpation is not ſo violent as that of Agathocles, Dionyſius, or the laſt king of Denmark, who in one day by the ſtrength of a mercenary ſoldiery overthrew all the laws of his country*. And a lawfully created magiſtrate is forced to follow the ſame ways

* As the revolution in Denmark, to which Sidney alludes in this paſſage, is one of the moſt remarkable events in hiſtory, the following ſhort account of it may not be unacceptable to the reader.

Immediately after the peace was concluded with Sweden, in 1660, the ſtates of Denmark were convened, in order to ſettle the affairs of the nation, to repair the diſorders which had been occaſioned by a ruinous war, and to raiſe large ſums of money for the payment of the army. The king foreſaw the difficulties and diſſentions which would inevitably ariſe in this convention. It was therefore by his direction inſinuated to the clergy, and the preſident of Copenhagen, ſpeaker of the commons, that the public tranquillity might be eaſily reſtored, if all the members of the ſtate would bear their proportion of the expence. In conſequence of this intimation, the commons laid before the nobility the deplorable ſituation of the people, and the impoſſibility of raiſing money for the preſent exigencies, unleſs they conſented to pay their ſhare: which was the more reaſonable as they had the wealth of the nation in their hands. The nobles, who were numerous, powerful, and inſolent, not appriſed of the colluſion between the king and the commons, replied, "that they had been always exempted "from taxes; that their tenants were their vaſſals and ſlaves; and that it was preſumption "in them, to conteſt the privileges of the nobility." The commons, exaſperated by this contemptuous anſwer, withdrew from the aſſembly; and after ſome deliberations, determined to ſurrender their authority to the king. Several meſſages paſſed between them and the court in the evening; and the next morning they had an audience of his majeſty. They repreſented to him, that as the preſent conſtitution did not, in their opinion, anſwer the end of government, and they were fully convinced of his majeſty's prudence, virtue, and paternal love for his people, they had reſolved to put the whole adminiſtration of the kingdom into his hands. At firſt, the king pretended to have ſome ſcruples about accepting an arbitrary power; but upon the commons perſiſting in their requeſt, he told them, that he was much obliged to them for the favourable ſentiments they entertained of his affection towards his people; that they might depend upon his royal protection; and that he would certainly redreſs their grievances, and encourage them ſuitably to their merit: but he obſerved, that on this occaſion it was neceſſary to have the concurrence of the nobility. In the mean time, the king ordered the governor of the city to ſhut the gates; and as he had the army abſolutely in his power, it was impoſſible for any of the nobility to retire to their eſtates, without his permiſſion, which brought his deſigns to an immediate iſſue. The nobility now diſcovered their error, but it was irreparable. Some part of their privileges they determined therefore to reſign, in order to ſecure the reſt. With this view they made his majeſty an offer to advance his prerogative conſiderably, and to ſettle the ſucceſſion in the male line of his deſcendants; but they were told, that this would neither anſwer his majeſty's purpoſe, nor ſatisfy the clergy and commons. The people continued loud in their clamours againſt them; and in this ſituation they were forced to comply, to render his majeſty arbitrary, and the kingdom hereditary in his iſſue, whether male or female. In two or three days afterwards, the king,

ways as ſoon as he begins to affect a power which the laws do not confer upon him. I wiſh I could ſay there were few of theſe; but experience ſhews, that ſuch a proportion of wiſdom, moderation of ſpirit, and juſtice, is required in a ſupreme magiſtrate, to render him content with a limited power, as is ſeldom found. Man is of an aſpiring nature, and apt to put too high a value upon himſelf. They who are raiſed above their brethren, though but a little, deſire to go farther; and if they gain the name of king, they think themſelves wronged and degraded, when they are not ſuffered to do what they pleaſe *. In theſe things they never want maſters; and the nearer they come to a power that is not eaſily reſtrained by law, the more paſſionately they deſire to aboliſh all that oppoſes it. When their hearts are filled with this fury, they never fail to chooſe ſuch miniſters as will be ſubſervient to their will: and this is ſo well known, that thoſe only approach them who reſolve to be ſo. Their intereſts, as well as their inclinations, incite them to diffuſe their own manners as far as they can; which is no leſs than to bring thoſe, who are under their power, to all that wickedneſs of which the nature of man is capable. And no greater teſtimony can be given of the efficacy of theſe means towards the utter corruption of nations, than the accurſed effects we ſee of them in our own and the neighbouring countries. SECT. 19

It may be ſaid, that ſome princes are ſo full of virtue and goodneſs, as not to deſire more power than the laws allow, and are not obliged to chooſe ill men, becauſe they deſire nothing but what the beſt are willing to do. This may be, and ſometimes is. The nation is happy that has ſuch a king: but he is not eaſily found, and more than a human power is required to keep him in ſo good a way. The ſtrength of his own affections will ever be againſt him. Wives, children, and ſervants, will always join with thoſe enemies that ariſe in his own breaſt to pervert him; if he has any weak ſide, any luſt unſubdued, they will gain the victory. He has not ſearched into the nature of man, who thinks that any one can reſiſt, when he is thus on all ſides aſſaulted. Nothing but the wonderful and immediate power of God's Spirit can preſerve him; and to allege it, will be nothing to the purpoſe, unleſs it can be proved, that all princes are

king, queen, and royal family, under canopies of ſtate, received the homage of the nobility, clergy, *and people,* in the ſight of the army, which attended to grace the ſolemnity, and prevent any diſturbance or oppoſition that might be made to this change in the conſtitution. Thus the ſtates of Denmark, within the ſpace of two days, raſhly, and fatally diveſted themſelves of thoſe privileges, which their anceſtors had purchaſed with their blood and treaſure. There are various opinions with reſpect to the ſhare his majeſty bore in this great event. Some writers wholly aſcribe it to the inſolence of the nobility and the united reſentment of the people, ariſing from unavoidable circumſtances. But others affirm, that his majeſty fomented their diviſions by the moſt artful policy, in order to eſtabliſh the royal prerogative on the ruins of public liberty. See Univ. Hiſt. Vol. 32, and Moleſworth's account of Denmark.

* "—— Sanctitas, pietas, fides,
"Privata bona ſunt: quà juvat, reges eant." Sen. Thyeſt. Act. 2

CHAP. II

bleſſed with ſuch an aſſiſtance, or that God has promiſed it to them and their ſucceſſors for ever, by what means ſoever they came to the crowns they enjoy.

Nothing is farther from my intention than to ſpeak irreverently of kings; and I preſume no wiſe man will think I do ſo, if I profeſs, that, having obſerved, as well as I can, what hiſtory, and daily experience teach us concerning the virtues and religions, that are or have been from the beginning of the world encouraged and ſupported by monarchs, the methods they have followed ſince they have gone under the name of chriſtians, their moral as well as their theological graces, together with what the Scriptures tell us of thoſe, who in the laſt days will principally ſupport the throne of antichriſt, I cannot be confident, that they are generally, in an extraordinary manner, preſerved by the hand of God from the vices and frailties, to which the reſt of mankind are ſubject. If no man can ſhew, that I am in this miſtaken, I may conclude, that as they are more than any other men in the world expoſed to temptations and ſnares, they are more than any in danger of being corrupted, and made inſtruments of corrupting others, if they are no otherwiſe defended than the reſt of men.

This being the ſtate of the matter on both ſides, we may eaſily collect, that all governments are ſubject to corruption and decay; but with this difference, that abſolute monarchy is by principle led unto, or rooted in it. Whereas mixed or popular governments are only in a poſſibility of falling into it. As the firſt cannot ſubſiſt, unleſs the prevailing part of the people be corrupted, the other muſt certainly periſh, unleſs they are preſerved in a great meaſure free from vices. I doubt, whether any better reaſon can be given, why there have been and are more monarchies than popular governments in the world, than that nations are more eaſily drawn into corruption than defended from it; and I think that monarchy can be ſaid to be natural in no other ſenſe, than that our depraved nature is moſt inclined to that which is worſt.

To avoid unneceſſary diſputes, I give the name of popular governments to thoſe of Rome, Athens, Sparta, and the like, though improperly, unleſs the ſame may alſo be given to many that are uſually called monarchies, ſince there is nothing of violence in either: the power is conferred upon the chief magiſtrates of both by the free conſent of a willing people, and ſuch a part as they think fit is ſtill retained and executed in their own aſſemblies; and in this ſenſe it is that our author ſeems to ſpeak againſt them. As to popular government in the ſtricteſt ſenſe, that is, pure democracy, where the people in themſelves, and by themſelves, perform all that belongs to government, I know of no ſuch thing; and if it be in the world, have nothing to ſay for it. In aſſerting the liberty, generally, as I ſuppoſe, granted by God to all mankind, I neither deny, that ſo many, as think fit to enter into a ſociety, may give ſo much of their power as they pleaſe to one or more men, for a time, or perpetually, to them and their heirs, according to ſuch rules as they preſcribe; nor approve the diſorders that muſt ariſe if they keep it entirely in their own hands. And looking upon the ſeveral governments, which, under different forms and names,

names, have been regularly conſtituted by nations, as ſo many undeniable teſtimonies, that they thought it good for themſelves, and their poſterity, ſo to do, I infer, that as there is no man who would not rather chooſe to be governed by ſuch as are juſt, induſtrious, valiant, and wiſe, than by thoſe that are wicked, ſlothful, cowardly, and fooliſh; and to live in ſociety with ſuch as are qualified like thoſe of the firſt ſort, rather than with thoſe who will be ever ready to commit all manner of villainies, or want experience, ſtrength, or courage, to join in repelling the injuries that are offered by others: ſo there are none who do not, according to the meaſure of their underſtanding, endeavour to ſet up thoſe who ſeem to be beſt qualified, and to prevent the introduction of thoſe vices, which render the faith of the magiſtrate ſuſpected, or make him unable to perform his duty, in providing for the execution of juſtice, and the public defence of the ſtate, againſt foreign or domeſtic enemies. For as no man, who is not abſolutely mad, will commit the care of a flock to a villain, that has neither ſkill, diligence, nor courage, to defend them, or perhaps is maliciouſly ſet to deſtroy them, rather than to a ſtout, faithful, and wiſe ſhepherd, it is leſs to be imagined, that any would commit the ſame error in relation to that ſociety which comprehends himſelf, with his children, friends, and all that is dear to him. SECT. 19

The ſame conſiderations are of equal force in relation to the body of every nation. For ſince the magiſtrate, though the moſt perfect in his kind, cannot perform his duty, if the people be ſo baſe, vicious, effeminate, and cowardly, as not to ſecond his good intentions, thoſe who expect good from him, cannot deſire ſo to corrupt their companions that are to help him, as to render it impoſſible for him to accompliſh it. Though I believe there have been in all ages bad men in every nation, yet I doubt whether there were any in Rome, except a Catiline or a Caeſar, who deſigned to make themſelves tyrants, that would not rather have wiſhed the whole people as brave and virtuous as in the time of the Carthaginian wars, than vile and baſe, as in the days of Nero and Domitian. But it is madneſs to think, that the whole body would not rather have wiſhed to be as it was when virtue flouriſhed, and nothing upon earth was able to reſiſt their power, than weak, miſerable, baſe, ſlaviſh, trampled under foot by any that would invade them, and forced as chattels to become a prey to thoſe that were ſtrongeſt. Which is ſufficient to ſhew, that a people, acting according to the liberty of their own will, never advance unworthy men, unleſs it be by miſtake, nor willingly ſuffer the introduction of vices. Whereas the abſolute monarch always prefers the worſt of thoſe who are addicted to him, and cannot ſubſiſt unleſs the prevailing part of the people be baſe and vicious.

If it be ſaid, that thoſe governments, in which the democratical part governs moſt, do more frequently err in the choice of men, or the means of preſerving that purity of manners which is required for the well-being of a people, than thoſe wherein ariſtocracy prevails, I confeſs it, and that in Rome and Athens the beſt and wiſeſt men did for the moſt part incline

CHAP. II to ariſtocracy. Xenophon, Plato, Ariſtotle, Thucydides, Livy, Tacitus, Cicero, and others, were of this ſort. But if our author there ſeek patrons for his abſolute monarchy, he will find none but Phalaris, Agathocles, Dionyſius, Catiline, Cethegus, Lentulus, with the corrupted crew of mercenary raſcals, who did, or endeavoured to ſet them up. Theſe are they "quibus ex honeſto nulla eſt ſpes*:" they abhor the dominion of the law, becauſe it curbs their vices, and make themſelves ſubſervient to the luſts of a man who may nouriſh them. Similitude of intereſts, manners, and deſigns, is a link of union between them; both are enemies to popular and mixed government; and thoſe governments are enemies to them, and by preſerving virtue and integrity oppoſe both, knowing that if they do not they muſt certainly periſh.

SECTION XX

MAN'S NATURAL LOVE TO LIBERTY IS TEMPERED BY REASON, WHICH ORIGINALLY IS HIS NATURE.

That our author's book may appear to be a heap of incongruities and contradictions, it is not amiſs to add to what has already been obſerved, that, having aſſerted abſolute monarchy to be "the only natural government," he now ſays, "that the nature of all people is to deſire liberty without "reſtraint." But if monarchy be that power which above all reſtrains liberty, and ſubjects all to the will of one, this is as much as to ſay, that all people naturally deſire that which is againſt nature; and by a wonderful exceſs of extravagance and folly to aſſert contrary propoſitions, that on both ſides are equally abſurd and falſe. For, as we have already proved, that no government is impoſed upon men by God or nature, it is no leſs evident, that, man being a rational creature, nothing can be univerſally natural to him, that is not rational. But this liberty without reſtraint being inconſiſtent with any government, and the good which man naturally deſires for himſelf, children, and friends, we find no place in the world where the inhabitants do not enter into ſome kind of ſociety or government to reſtrain it: and to ſay that all men deſire liberty without reſtraint, and yet that all do reſtrain it, is ridiculous. The truth is, man is hereunto led by reaſon, which is his nature. Every one ſees they cannot well live aſunder, nor many together, without ſome rule to which all muſt ſubmit. This ſubmiſſion is a reſtraint of liberty, but could be of no effect as to the good intended, unleſs it were general; nor general, unleſs it were natural. When all are born to the ſame freedom, ſome will not reſign that which is their own, unleſs others do the like. This general conſent of all to

* Homines quibus mala abundè omnia erant, ſed neque res, neque ſpes bona ulla. Sall. Bell. Catil. § 22

reſign

reſign ſuch a part of their liberty, as ſeems to be for the good of all, is the voice of nature, and the act of men, according to natural reaſon, ſeeking their own good. And if all go not in the ſame way, according to the ſame form, it is an evident teſtimony that no one is directed by nature. But as a few or many may join together, and frame ſmaller or greater ſocieties, ſo thoſe ſocieties may inſtitute ſuch an order or form of government as beſt pleaſes themſelves; and if the ends of government are obtained, they all equally follow the voice of nature in conſtituting them. SECT. 26

Again, if man were by nature ſo tenacious of his liberty without reſtraint, he muſt be rationally ſo. The creation of abſolute monarchies, which entirely extinguiſhes it, muſt neceſſarily be moſt contrary to it, though the people were willing; for they thereby abjure their own nature. The uſurpation of them can be no leſs than the moſt abominable and outrageous violation of the laws of nature, that can be imagined. The laws of God muſt be in the like meaſure broken. And of all governments, democracy, in which every man's liberty is leaſt reſtrained, becauſe every man has an equal part, would certainly prove to be the moſt juſt, rational, and natural: whereas our author repreſents it as a perpetual ſpring of diſorder, confuſion, and vice. This conſequence would be unavoidable, *if* he ſaid true. But it being my fate often to differ from him, I hope to be excuſed if I do ſo in this alſo, and affirm, that nothing but the plain and certain dictates of reaſon can be generally applicable to all men, as the law of their nature: and they, who according to the beſt of their underſtanding provide for the good of themſelves and their poſterity, do all equally obſerve it. He that inquires more exactly into the matter may find, that reaſon injoins every man not to arrogate to himſelf more than he allows to others, nor to retain that liberty which will prove hurtful to him; nor to expect that others will ſuffer themſelves to be reſtrained, while he, to their prejudice, remains in the exerciſe of that freedom which nature allows. He, who would be exempted from this common rule, muſt ſhew for what reaſon he ſhould be raiſed above his brethren; and, if he do it not, he is an enemy to them. This is not popularity, but tyranny; and tyrants are ſaid "exuiſſe hominem," to throw off the nature of men, becauſe they do unjuſtly and unreaſonably aſſume to themſelves that which agrees not with the frailty of human nature, and ſet up an intereſt in themſelves contrary to that of their equals, which they ought to defend as their own. Such as favour them are like to them. We know of no tyranny that was not ſet up by the worſt, nor of any that have been deſtroyed, unleſs by the beſt of men. The ſeveral tyrannies of Syracuſe were introduced by Agathocles, Dionyſius, Hieronymus, Hippocrates, Epycides, and others, by the help of lewd diſſolute mercenary villains; and overthrown by Timoleon, Dion, Theodorus, and others, whoſe virtues will be remembered in all ages. Theſe, and others like to them, never ſought liberty without reſtraint, but ſuch as was reſtrained by laws tending to the public good; that all might concur in

CHAP. II promoting it, and the unruly desires of those who affected power and honours, which they did not deserve, might be repressed.

The like was seen in Rome. When Brutus, Valerius, and other virtuous citizens, had thrown out the lewd Tarquins, they trusted to their own innocence and reputation; and thinking them safe under the protection of the law, contented themselves with such honours as their countrymen thought they deserved. This would not satisfy the dissolute crew that used to be companions to the Tarquins. "Sodales adolescentium "Tarquiniorum assueti more regio vivere, eam tum aequato jure omnium "licentiam quaerentes, libertatem aliorum in suam vertisse servitutem "inter se conquerebantur. Regem hominem esse, à quo impetres ubi "jus, ubi injuria opus sit. Esse gratiae locum, esse beneficio; et irasci "et ignoscere posse. Leges rem surdam, inexorabilem esse, salubriorem "melioremque inopi quàm potenti: nihil laxamenti nec veniae habere, "si modum excesseris: periculosum esse in tot humanis erroribus solâ "innocentiâ vivere *." I cannot say, that either of these sought a liberty without restraint; for the virtuous were willing to be restrained by the law, and the vicious to submit to the will of a man, to gain impunity in offending. But if our author say true, the licentious fury of these lewd young men, who endeavoured to subvert the constitution of their country, to procure the impunity of their own crimes, would have been more natural, that is, more reasonable than the orderly proceedings of the most virtuous, who desired that the law might be the rule of their actions, which is most absurd.

The like vicious wretches have in all times endeavoured to put the power into the hands of one man, who might protect them in their villainies, and advance them to exorbitant riches, or undeserved honours; while the best men, trusting in their innocence, and desiring no other riches or preferments than what by their equals they were thought to deserve, were contented with a due liberty, under the protection of a just law: and I must transcribe the histories of the world, or at least so much of them as concerns the tyrannies that have been set up or cast down, if I should here insert all the proofs that might be given of it. But I shall come nearer to the point, which is, not to compare democracy with monarchy, but a regular mixed government with such an absolute monarchy, as leaves all to the will of that man, woman, or child, who happens to be born in the reigning family, how ill soever they may be qualified. I desire those who are lovers of truth to consider, whether the wisest, best, and bravest of men, are not naturally led to be pleased with a government that protects them from receiving wrong, when they have not the least inclination to do any? Whether they, who desire no unjust advantage above their brethren, will not always desire that a people or senate constituted as that of Rome, from the expulsion of Tarquin to the setting up of Caesar, should rather judge of their merit, than Tarquin,

* Liv. l. 2, c. 3.

Caesar,

Caeſar, or his ſucceſſors? Or whether the lewd or corrupted pretorian bands, with Macro, Sejanus, Tigellinus, and the like, commanding them, will not ever, like Brutus's ſons, abhor the inexorable power of the laws, with the neceſſity of living only by their innocence, and favour the intereſt of princes like to thoſe that advanced them? If this be not ſufficient, they may be pleaſed a little to reflect upon the affairs of our own country, and ſeriouſly conſider, whether Hyde, Clifford, Falmouth, Arlington and Danby, could have pretended to the chief places, if the diſpoſal of them had been in a free and well-regulated parliament? Whether they did moſt reſemble Brutus, Publicola, and the reſt of the Valerii, the Fabii, Quintii, Cornelii, &c. or Narciſſus, Pallas, Icetus, Laco, Vinius, and the like? Whether all men, good and bad, do not favour that ſtate of things, which favours them, and ſuch as they are? Whether Cleveland, Portſmouth, and others of the ſame trade, have attained to the riches and honours they enjoy by ſervices done to the commonwealth? And what places Chiffinch, Fox and Jenkins, could probably have attained, if our affairs had been regulated as good men deſire? Whether the old arts of begging, ſtealing, and bawding, or the new ones of informing and trepanning, thrive beſt under one man who may be weak or vicious, and is always ſubject to be circumvented by flatterers, or under the ſevere ſcrutinies of a ſenate or people? In a word, whether they who live by ſuch arts, and know no other, do not always endeavour to advance the government under which they enjoy, or may hope to obtain the higheſt honours, and abhor that, in which they are expoſed to all manner of ſcorn and puniſhment? Which being determined, it will eaſily appear, why the worſt men have ever been for abſolute monarchy, and the beſt againſt it: and which of the two in ſo doing can be ſaid to deſire an unreſtrained liberty of doing that which is evil. SECT. 21

SECTION XXI

MIXED AND POPULAR GOVERNMENTS PRESERVE PEACE, AND MANAGE WARS, BETTER THAN ABSOLUTE MONARCHIES.

Being no way concerned in the defence of democracy; and having proved, that Xenophon, Thucydides, and others of the antients, in ſpeaking againſt the over great power of the common people, intended to add reputation to the ariſtocratical party to which they were addicted, and not to ſet up abſolute monarchy, which never fell under diſcourſe among them, but as an object of ſcorn and hatred, evil in itſelf, and only to be endured by baſe and barbarous people, I may leave our knight, like Don Quixote, fighting againſt the phantaſms of his own brain, and ſaying what he pleaſes againſt ſuch governments as never were, unleſs in ſuch a place as St. Marino near Sinigaglia in Italy, where a hundred clowns govern a barbarous rock that no man invades, and relates nothing to

our-

CHAP. II our queſtion *. If his doctrine be true, the monarchy he extols is not only to be preferred before unruly democracy, and mixed governments, but is the only one, that, without a groſs violation of the laws of God and nature, can be eſtabliſhed over any nation. But having, as I hope, ſufficiently proved, that God did neither inſtitute, nor appoint any ſuch to be inſtituted, nor approve thoſe that were; that nature does not incline us to it, and that the beſt as well as the wiſeſt men have always abhorred it; that it has been agreeable only to the moſt ſtupid and baſe nations; and that if others have ſubmitted to it, they have done ſo only as to the greateſt of evils brought upon them by violence, corruption, or fraud, I may now proceed to ſhew, that the progreſs of it has been in all reſpects ſuitable to its beginning.

To this end it will not be amiſs to examine our author's words — "Thus do they paint to the life this beaſt with many heads: let me "give the cypher of their form of government: as it is begot by ſedition, "ſo it is nouriſhed by arms: it can never ſtand without wars, either with "an enemy abroad, or with friends at home—" and in order to this I will not criticiſe upon the terms, though "the cypher of a form," and "war with friends," may be juſtly called nonſenſe; but coming to his aſſertions, that popular or mixed governments have their birth in ſedition, and are ever afterwards vexed with civil or foreign wars, I take liberty to ſay, that whereas there is no form appointed by God or nature, thoſe governments only can be called juſt, which are eſtabliſhed by the conſent of nations. Theſe nations may at the firſt ſet up popular or mixed governments, or without the guilt of ſedition introduce them afterwards, if that which was firſt eſtabliſhed prove unprofitable or hurtful to them; and thoſe that have done ſo have enjoyed more juſtice in times of peace, and managed wars, when occaſion required, with more virtue, and better ſucceſs, than any abſolute monarchies have done. And whereas he ſays, that "in popular "governments each man hath a care of his particular, and thinks baſely of "the common good; that they look upon approaching miſchiefs as they "do upon thunder, only every man wiſheth it may not touch his own "perſon;" I ſay, that men can no otherwiſe be engaged to take care of the public, than by having ſuch a part in it, as abſolute monarchy does not allow: for under it they can neither obtain the good for themſelves, poſterity, and friends, that they deſire, nor prevent the miſchiefs they fear; which are the principal arguments that perſuade men to expoſe themſelves to labours or dangers. It is a folly to ſay, that the vigilance and wiſdom of the monarch ſupplies the defect of care in others; for we know, that no men under the ſun were ever more void of both, and all manner of virtue required to ſuch a work, than very many monarchs

* The republic of St. Marino, next to that of Mellingen in Switzerland, is the ſmalleſt republic in Europe. The limits of it extend no farther than the baſe of the mountain, on which it is ſeated. Its inſignificance is its ſecurity. No neighbouring prince ever thought it worth his while to deſtroy the independency of ſuch a bee-hive. See Blainville's Trav. vol. 2, p. 227. Addiſon's Remarks on ſeveral parts of Italy.

have been: and, which is yet worſe, the ſtrength and happineſs of the people being frequently dangerous to them, they have not ſo much as the will to promote it; nay, ſometimes ſet themſelves to deſtroy it. Antient monarchies afford us frequent examples of this kind. And if we conſider thoſe of France and Turky, which ſeem moſt to flouriſh in our age, the people will appear to be ſo miſerable under both, that they cannot fear any change of governor and government; and all, except a few miniſters, are kept ſo far from the knowledge of, or power in the management of affairs, that if any of them ſhould fancy a poſſibility of ſomething that might befal them worſe than what they ſuffer, or hope for that which might alleviate their miſery, they could do nothing towards the advancement of the one, or prevention of the other. Tacitus obſerves, that in his time no man was able to write what paſſed, "inſcitiâ reipublicae ut "alienae.*" They neglected the public affairs in which they had no part. In the ſame age it was ſaid, that the people, who, while they fought for their own intereſts, had been invincible, being enſlaved were grown ſordid, idle, baſe, running after ſtage-plays and ſhows; ſo that the whole ſtrength of the Roman armies conſiſted of ſtrangers. When their ſpirits were depreſſed by ſervitude, they had neither courage to defend themſelves, nor will to fight for their wicked maſters; and leaſt of all to increaſe their power, which was deſtructive to themſelves. The ſame thing is found in all places. Though the Turk commands many vaſt provinces, that naturally produce as good ſoldiers as any, yet his greateſt ſtrength is in children that do not know their fathers; who not being very many in number, may periſh in one battle, and the empire by that means be loſt, the miſerable nations that groan under that tyranny having neither courage, power, nor will to defend it. This was the fate of the Mammelucs. They had for the ſpace of almoſt two hundred years domineered in Egypt, and a great part of Aſia; but the people under them being weak and diſaffected, they could never recover the defeat they received from Selim near Aleppo, who, purſuing his victory, in a few months utterly aboliſhed their kingdom †. SECT. 21

Notwithſtanding the preſent pride of France, the numbers and warlike inclinations of that people, the bravery of the nobility, extent of dominion, convenience of ſituation, and the vaſt revenues of their king, his greateſt advantages have been gained by the miſtaken counſels of England, the valour of our ſoldiers unhappily ſent to ſerve him, and the ſtrangers of whom the ſtrength of his armies conſiſts; which is ſo unſteady a ſupport, that many who are well verſed in affairs of this nature incline to think, he ſubſiſts rather by little arts, and corrupting miniſters in foreign courts, than by the power of his own armies; and that ſome reformation in the counſels of his neighbours might prove ſufficient to overthrow that greatneſs, which is grown formidable to Europe, the ſame miſery to which he

* Tacit. Hiſt. l. 1, § 1

† Selim I. An. 1517. See Knolles's Turkiſh Hiſtory, p. 361, 375

has

CHAP. II has reduced his people, rendering them as unable to defend him, upon any change of fortune, as to defend their own rights againſt him.

This proceeds not from any particular defect in the French government, but that which is common to all abſolute monarchies. And no ſtate can be ſaid to ſtand upon a ſteady foundation, except thoſe whoſe ſtrength is in their own ſoldiery, and the body of their own people. Such as ſerve for wages, often betray their maſters in diſtreſs, and always want the courage and induſtry which is found in thoſe, who fight for their own intereſts, and are to have a part in the victory. The buſineſs of mercenaries is ſo to perform their duty, as to keep their employments, and to draw profit from them; but that is not enough to ſupport the ſpirits of men in extreme dangers. The ſhepherd, who is a hireling, flies when the thief comes. And this adventitious help failing, all that a prince can reaſonably expect from a diſaffected and oppreſſed people is, that they ſhould bear the yoke patiently in the time of his proſperity: but upon the change of his fortune, they leave him to ſhift for himſelf, or join with his enemies to avenge the injuries they had received. Thus did Alphonſo and Ferdinand kings of Naples, and Ludovico Sforza duke of Milan fall, in the times of Charles the eighth, and Louis the twelfth, kings of France. The two firſt had been falſe, violent, and cruel; nothing within their kingdom could oppoſe their fury. But when they were invaded by a foreign power, they loſt all, as Guicciardini ſays, without breaking one lance; and Sforza was by his own mercenary ſoldiers delivered into the hands of his enemies.

I think it may be hard to find examples of ſuch as proceeding in the ſame way have had better ſucceſs. But if it ſhould ſo fall out, that a people living under an abſolute monarchy, ſhould through cuſtom, or fear of ſomething worſe (if that can be) not only ſuffer patiently, but deſire to uphold the government, neither the nobility, nor commonalty can do any thing towards it. They are ſtrangers to all public concernments: all things are governed by one or a few men, and others know nothing either of action or counſel. Filmer will tell us it is no matter; the profound wiſdom of the prince provides for all. But what if this prince be a child, a fool, a ſuperannuated dotard, or a madman? Or if he does not fall under any of theſe extremities, and poſſeſſes ſuch a proportion of wit, induſtry, and courage, as is ordinarily ſeen in men, how ſhall he ſupply the office that indeed requires profound wiſdom, and an equal meaſure of experience and valour? It is to no purpoſe to ſay a good council may ſupply his defects; for it does not appear how he ſhould come by this council, nor who ſhould oblige him to follow their advice. If he be left to his own will to do what he pleaſes, though good advice be given to him, yet his judgment being perverted, he will always incline to the worſt. If a neceſſity be impoſed upon him of acting according to the advice of his council, he is not that abſolute monarch of whom we ſpeak, nor the government monarchical, but ariſtocratical. Theſe are imperfect fig-leaf coverings of nakedneſs. It was in vain to give good counſel to Sardanalpaus;

Sardanapalus; and none could defend the Aſſyrian empire, when he lay wallowing among his whores, without any other thought than of his luſts. None could preſerve Rome, when Domitian's chief buſineſs was to kill flies, and that of Honorius to take care of his hens. The monarchy of France muſt have periſhed under the baſe kings they call "les rois faineants," if the ſcepter had not been wreſted out of their unworthy hands *. The world is full of examples of this kind. When it pleaſes God to beſtow a juſt, wiſe, and valiant king, as a bleſſing upon a nation, it is only a momentary help, his virtues end with him; and there being neither any divine promiſe nor human reaſon moving us to believe, that they ſhall always be renewed and continued in his ſucceſſors, men cannot rely upon it; and to allege a poſſibility of ſuch a thing is nothing to the purpoſe. SECT. 21

On the other ſide, in a popular or mixed government every man is concerned; every one has a part, according to his quality or merit; all changes are prejudicial to all; whatever any man conceives to be for the public good, he may propoſe it in the magiſtracy, or to the magiſtrate; the body of the people is the public defence, and every man is armed and diſciplined; the advantages of good ſucceſs are communicated to all, and every one bears a part in the loſſes. This makes men generous and induſtrious, and fills their hearts with love to their country †. This, and the deſire of that praiſe which is the reward of virtue, raiſed the Romans above the reſt of mankind; and where-ever the ſame ways are taken, they will in a great meaſure have the ſame effects. By theſe means they had as many ſoldiers to fight for their country as there were freemen in it. While they had to deal with the free nations of Italy, Greece, Africa, or Spain, they never conquered a country, till the inhabitants were exhauſted. But when they came to fight againſt kings, the ſucceſs of a battle was enough to bring a kingdom under their power. Antiochus, upon a repulſe received from Acilius at Thermopylae ‡, left all that he poſſeſſed in Greece; and being defeated by Scipio Naſica, he quitted all the kingdoms and territories of Aſia on this ſide Taurus. Aemilius Paulus became maſter of Macedon by one proſperous fight againſt Perſeus. Syphax, Gentius, Tigranes, Ptolemy, and others, were more eaſily ſubdued. The mercenary armies on which they relied being broken, the cities and countries, not caring for their maſters, ſubmitted to thoſe who had more virtue, and better fortune. If the power of the Romans had

* From the beginning of the reign of Clovis the ſecond, to the reign of Pepin le Bref, that is, for the ſpace of 105 years, hiſtorians have written with ſo little order, that we find ſcarce any regular ſeries of the hiſtory of France. According to their accounts, ten or eleven princes reigned ſucceſſively, without concerning themſelves in the leaſt with the affairs of their kingdom; for which reaſon they have called them "the idle kings." The firſt of them was Clovis the ſecond, the laſt Childeric the Stupid, from whom the French took the crown, to place it on the head of Pepin le Bref, his mayor of the palace.

† — Amor patriae laudumque immenſa cupido. Virg. Aen. l. 6, v. 823

‡ Liv. l. 36, c. 15, et ſeq.

CHAP. II not been built upon a more ſure foundation, they could not have ſubſiſted. Notwithſtanding their valour, they were often beaten; but their loſſes were immediately repaired by the excellence of their diſcipline. When Hannibal had gained the battles of Trebia, Ticinum, Thraſymene, and Cannae; defeated the Romans in many other encounters, and ſlain above two hundred thouſand of their men, with Aemilius Paulus, C. Servilius, Sempronius Gracchus, Criſpinus, Marcellus, and many other excellent commanders; when about the ſame time the two brave Scipio's had been cut off with their armies in Spain, and many great loſſes had been ſuſtained in Sicily, and by ſea, one would have thought it impoſſible for the city to have reſiſted: but their virtue, love to their country, and good government, was a ſtrength that increaſed under all their calamities, and in the end overcame all. The nearer Hannibal came to the walls, the more obſtinate was their reſiſtance. Though he had killed more great captains than any kingdom ever had, others daily ſtepped up in their place, who excelled them in all manner of virtue. I know not, if at any time that conquering city could glory in a greater number of men fit for the higheſt enterprizes, than at the end of that cruel war, which had conſumed ſo many of them; but I think, that the finiſhing victories by them obtained, are but ill proofs of our author's aſſertion, that they "thought baſely of the common good, "and ſought only to ſave themſelves." We know of none except Caecilius Metellus, who, after the battle of Cannae, had ſo baſe a thought as to deſign the withdrawing himſelf from the public ruin; but Scipio, afterwards ſurnamed Africanus, threatening death to thoſe who would not ſwear never to abandon their country *, forced him to alter his intention. This may in general be imputed to good government and diſcipline, with which all were ſo ſeaſoned from their infancy, that no affection was ſo rooted in them, as an ardent love to their country, and a reſolution to die for it, or with it. But the means by which they accompliſhed their great ends, ſo as after their defeats to have ſuch men as carried on their nobleſt deſigns, with more glory than ever, were their annual elections of magiſtrates; many being thereby advanced to the ſupreme commands, and every one, by the honours he enjoyed, filled with a deſire of rendering himſelf worthy of them.

I ſhould not much inſiſt upon theſe things, if they had been ſeen only among the Romans. But though their diſcipline ſeems to have been more perfect, better obſerved, and to have produced a virtue that ſurpaſſed all others, the like has been found, though perhaps not in the ſame degree, in all nations that have enjoyed their liberty, and were admitted to ſuch a part of the government, as might give them a love to it. This was

* Ex mei animi ſententiâ, inquit, juro, ut ego rempublicam non deſeram, neque alium civem Romanum deſerere patiar. Si ſciens fallo, tum me, Jupiter optime maxime, domum, familiam, remque meam peſſimo letho afficias! In haec verba, L. Caecili, jures expoſtulo, caeterique qui adeſtis: qui non juraverit in ſe hunc gladium ſtrictum eſſe ſciat. Liv. l. 22, c. 53. Val. Max. l. 5, c. 6, § 7

evident

evident in all the nations of Italy. The Sabines, Volſci, Aequi, Tuſcans, SECT. 21
Samnites, and others, were never conquered till they had no men left. The Samnites alone inhabiting a ſmall and barren province, ſuffered more defeats before they were ſubdued, than all the kingdoms of Numidia, Egypt, Macedon, and Aſia; and, as it is expreſſed in their embaſſy to Hannibal, never yielded, till they who had brought vaſt numbers of men into the field, and by them defeated ſome of the Roman armies, were reduced to ſuch weakneſs, that they could not reſiſt one legion*. We hear of few Spartans, who did not willingly expoſe their lives for the ſervice of their country; and the women themſelves were ſo far inflamed with the ſame affection, that they refuſed to mourn for their children and huſbands, who died in the defence of it. When the brave Braſidas was ſlain, ſome eminent men went to comfort his mother upon the news of his death; and telling her he was the moſt valiant man in the city, ſhe anſwered, that he was indeed a valiant man, and died as he ought to do; but that, through the goodneſs of the gods, many others were left as valiant as he †.

When Xerxes invaded Greece, there was not a citizen of Athens able to bear arms, who did not leave his wife and children to ſhift for themſelves in the neighbouring cities, and their houſes to be burnt, when they embarked with Themiſtocles; and never thought of either, till they had defeated the Barbarians at Salamis by ſea, and at Platea by land. When men are thus ſpirited, ſome will ever prove excellent; and as none did ever ſurpaſs thoſe, who were bred under this diſcipline, in all moral, military, and civil virtues, thoſe very countries, where they flouriſhed moſt, have not produced any eminent men, ſince they loſt that liberty which was the mother and nurſe of them.

Though I ſhould fill a volume with examples of this kind, as I might eaſily do, ſuch as our author will ſay, that in popular governments "men "look upon miſchiefs as thunder, and only wiſh it may not touch them-"ſelves." But, leaving them to the ſcorn and hatred they deſerve for their impudence and folly, I conclude this point with the anſwer, that Trajano Boccalini puts into the mouth of Apollo, to the princes who complained that their ſubjects had not that love to their countries, as had been, and was daily ſeen, in thoſe who lived under commonwealths, which amounted to no more than to tell them, that their ill government was the cauſe of that defect, and that the prejudices incurred by rapine,

* Per centum propè annos cum populo Romano bellum geſſimus . . . Magni dictatores cum magiſtris equitum, bini conſules, cum binis conſularibus exercitibus, ingrediebantur fines noſtros, antè exploratos, et ſubſidiis poſitis, et ſub ſignis ad populandum ducebant . . . Jam ne manipulatim quidem, ſed latronum modo percurſant totis finibus noſtris negligentiùs, quàm ſi in Romano vagarentur agro. Liv. l. 23, c. 42

† Μεγαλυνοντων δε εκεινων τον ανδρα, και λεγοντων, ὡς ουκ εχει τοιουτον αλλον ἡ Σπαρτη· μη λεγετε, ειπεν, ω ξενοι, καλος μεν γαρ ην και αγαθος ὁ Βρασιδας, πολλους δε ανδρας Λακεδαιμων εχει τηνδε καρρονας. Plut. in vitâ Lycurgi.

CHAP. II violence, and fraud, were to be repaired only by liberality, juſtice, and ſuch a care of their ſubjects, that they might live happily under them *.

SECTION XXII

COMMONWEALTHS SEEK PEACE OR WAR, ACCORDING TO THE VARIETY OF THEIR CONSTITUTIONS.

If I have hitherto ſpoken in general of popular or mixed governments, as if they were all founded on the ſame principle, it was only becauſe our author without diſtinction has generally blamed them all, and generally imputed to every one thoſe faults, which perhaps never were in any; but moſt certainly are directly oppoſite to the temper and conſtitution of many among them. Malice and ignorance reign ſo equally in him, that it is not eaſy to determine from which of the two this falſe repreſentation proceeds. But leſt any man ſhould thereby be impoſed upon, it is time to obſerve, that the conſtitutions of commonwealths have been ſo various, according to the different temper of nations and times, that if ſome of them ſeem to have been principally conſtituted for war, others have as much delighted in peace. And many, having taken the middle, and, as ſome think, the beſt way, have ſo moderated their love to peace, as not to ſuffer the ſpirits of the people to fall, but kept them in a perpetual readineſs to make war when there was occaſion: and every one of thoſe, having followed ſeveral ways and ends, deſerve our particular conſideration.

The cities of Rome, Sparta, Thebes, and all the aſſociations of the Etolians, Achaians, Sabines, Latins, Samnites, and many others that antiently flouriſhed in Greece and Italy, ſeem to have intended nothing but the juſt preſervation of liberty at home, and making war abroad. All the nations of Spain, Germany, and Gaul, ſought the ſame things. Their principal work was to render their people valiant, obedient to their commanders, lovers of their country, and always ready to fight for it. And for this reaſon, when the ſenators of Rome had killed Romulus, they perſuaded Julius Proculus to affirm, that he had ſeen him in a moſt glorious form aſcending to heaven, and promiſing great things to the city: "proindè rem militarem colant.†" The Athenians were not leſs inclined

* All' ambaſciadore riſpoſe Apollo, che i principi con un buon governo di una piacevole giuſtizia, e con la liberalità, e con la perpetua abbondanza, mùlto più di lui, ne' cuori de' ſudditi loro potevano inſerire l'amore verſo la patria loro: perchè il genere umano, che per inſtinto di natura ardentiſſimamente amava il terreno, quale ſi foſſe, ove egli naſceva, anco facilmente lo diſamava, quando altri con le incommodità glielo rendeva odioſo, eſſendo particolar inſtinto de gli uomini di più toſto volere interizzirſi di freddo, che ſtare a quel fuoco, che empiendo la ſtanza di fumo faceva lagrimar gli occhi. Boccal. Rag. di Parnaſ. cent. 1. rag. 99.

† Liv. l. 1, c. 16

to

to war: but applied themſelves to trade, as ſubſervient to that end, by increaſing the number of the people, and furniſhing them with the means of carrying it on with more vigour and power. The Phenician cities, of which Carthage was the moſt eminent, followed the ſame method; but knowing that riches do not defend themſelves, or ſcorning ſlothfully to enjoy what was gained by commerce, they ſo far applied themſelves to war, that they grew to a power, which Rome only was able to overthrow. Venice, Florence, Genoa, Lucca, and ſome other cities of Italy, ſeem chiefly to have aimed at trade; and placing the hopes of their ſafety in the protection of more powerful ſtates, unwillingly entered into wars, eſpecially by land: and when they did, they made them by mercenary ſoldiers. SECT. 23

Again, ſome of thoſe that intended war, deſired to enlarge their territories by conqueſt; others only to preſerve their own, and to live with freedom and ſafety upon them. Rome was of the firſt ſort; and knowing that ſuch ends cannot be accompliſhed without great numbers of men, they freely admitted ſtrangers into the city, ſenate, and magiſtracy. Numa was a Sabine. Tarquinius Priſcus was the ſon of a Grecian. One hundred of thoſe Sabines, who came with Tatius, were admitted into the ſenate. Appius Claudius, of the ſame people, came to Rome, was made a member of the ſenate, and created conſul. They demoliſhed ſeveral cities, and brought the inhabitants to their own; gave the right of citizens to many others, ſometimes to whole cities and provinces, and cared not how many they received, ſo they could ingraft them upon the ſame intereſt with the old ſtock, and ſeaſon them with the ſame principles, diſcipline, and manners. On the other ſide, the Spartans deſiring only to continue free, virtuous, and ſafe in the enjoyment of their own territory, and thinking themſelves ſtrong enough to defend it, framed a moſt ſevere diſcipline, to which few ſtrangers would ſubmit. They baniſhed all thoſe curious arts, which are uſeful to trade; prohibited the importation of gold and ſilver; appointed the Helotes to cultivate their lands, and to exerciſe ſuch trades as are neceſſary to life*; admitted few ſtrangers to live among them; made none of them free of their city, and educated their youth in ſuch exerciſes only as prepared them for war. I will not take upon me to judge, whether this proceeded from ſuch a moderation of ſpirit, as placed felicity rather in the fulneſs and ſtability of liberty, integrity, virtue, and the enjoyment of their own, than in riches, power, and dominion over others; nor which of theſe two different methods deſerves moſt to be commended: but certain it is, that both ſucceeded according to the intention of the founders.

Rome conquered the beſt part of the world, and never wanted men to defend what was gained. Sparta lived in ſuch happineſs and reputation, that, till it was invaded by Epaminondas, an enemy's trumpet had not been heard by thoſe within the town for the ſpace of eight hundred years;

* Eſt genus quoddam hominum, quod Helotes vocatur, quorum magna multitudo agros Lacedaemoniorum colit, ſervorumque munere fungitur. Nep. Pauſ. c. 3

and

CHAP. II

and never ſuffered any great diſaſter, till receding from their own inſtitutions, they were brought by proſperity to affect the principality of Greece, and to undertake ſuch wars as could not be carried on without money, and greater numbers of men than a ſmall city was able to furniſh: by which means they were obliged to beg aſſiſtance from the barbarians, whom they ſcorned and hated, as appears by the ſtories of Callicratides, Lyſander, and Ageſilaus, and involved themſelves in difficulties which they never ſurmounted.

The like variety has been obſerved in the conſtitutions of thoſe northern nations, which invaded the Roman empire. For though all of them intended war, and looked upon thoſe only to be members of their commonwealths, who uſed arms to defend them; yet ſome did immediately incorporate themſelves with thoſe of the conquered countries. Of this number were the Franks, who preſently became one nation with the Gauls. Others kept themſelves in a diſtinct body, as the Saxons did from the Britons. And the Goths, for more than three hundred years that they reigned in Spain, never contracted marriages, or otherwiſe mixed with the Spaniards, till their kingdom was overthrown by the Moors.

Theſe things, and others of the like nature, being weighed, many have doubted, whether it were better to conſtitute a commonwealth for war, or for trade; and of ſuch as intend war, whether thoſe are moſt to be praiſed who prepare for defence only, or thoſe who deſign by conqueſt to enlarge their dominions. Or, if they admit of trade, whether they ſhould propoſe the acquiſition of riches for their ultimate end, and depend upon foreign or mercenary forces to defend them; or to be as helps to enable their own people to carry on thoſe wars, in which they may be frequently engaged. Theſe queſtions might perhaps be eaſily decided, if mankind were of a temper to ſuffer thoſe to live in peace, who offer no injury to any; or if men, who have money to hire ſoldiers when they ſtand in need of them, could find ſuch as would valiantly and faithfully defend them, while they apply themſelves to their trades. But experience teaching us, that thoſe only can be ſafe who are ſtrong, and that no people was ever well defended, but thoſe who fought for themſelves, the beſt judges of theſe matters have always given the preference to thoſe conſtitutions that principally intend war, and make uſe of trade as aſſiſting to that end; and think it better to aim at conqueſt, than ſimply to ſtand upon their own defence: ſince he that loſes all, if he be overcome, fights upon very unequal terms; and if he obtain the victory, gains no other advantage, than for the preſent to repel the danger that threatened him.

Theſe opinions are confirmed by the examples of the Romans, who proſpered much more than the Spartans. And the Carthaginians, who made uſe of trade as a help to war, raiſed their city to be one of the moſt potent that ever was in the world. Whereas the Venetians having relied on trade, and mercenary ſoldiers, are always forced too much to depend upon foreign potentates; very often to buy peace on ignominious and prejudicial conditions; and ſometimes to fear the infidelity of their own commanders, no leſs than the violence of their enemies. But that which

ought

ought to be valued above all, in point of wiſdom as well as juſtice, is the government given by God to the Hebrews, which chiefly fitted them for war, and to make conqueſts. Moſes divided them under ſeveral captains, into thouſands, hundreds, fifties, and tens. This was a perpetual ordinance among them. In numbering them, thoſe only were counted, who were able to bear arms. Every man was obliged to go out to war, except ſuch as were lately married *, or upon other ſpecial occaſions were for a time excuſed. And the whole ſeries of the ſacred hiſtory ſhews, that there were always as many ſoldiers to fight for their country as there were men able to fight. And if this be taken for a picture of "a many-headed "beaſt," delighting in blood, "begotten by ſedition, and nouriſhed by "arms," God himſelf was the drawer of it. SECT. 22

In this variety of conſtitutions and effects proceeding from them, I can ſee nothing more juſtly and generally to be attributed to them all, than that love to their country, which our author impudently affirms to be wanting in all. In other matters their proceedings are not only different, but contrary to each other: yet it cannot be ſaid, that any nations have enjoyed ſo much peace as ſome republics. The too great inclination of the Venetians to peace is accounted to be a mortal error in their conſtitution; and they have not been leſs free from domeſtic ſeditions than foreign wars. The conſpiracies of the Falerii and Tiepoli were extinguiſhed by their puniſhment, and that of La Cueva cruſhed before it was ripe. Genoa has not been altogether ſo happy. The factions of the Guelphs and Gibelines, that ſpread themſelves over all Italy, infected that city; and the malice of the Spaniards and French raiſed others under the Fregoſi and Adorni: but they being compoſed, they have for more than an hundred and fifty years reſted in quiet.

There is another ſort of commonwealth, compoſed of many cities aſſociated together, and living "aequo jure;" every one retaining and exerciſing a ſovereign power within itſelf, except in ſome caſes expreſſed in the act of union, or league made between them. Theſe I confeſs are more hardly preſerved in peace. Diſputes may ariſe among them concerning limits, juriſdiction, and the like. They cannot always be equally concerned in the ſame things. The injuries offered to one do not equally affect all. Their neighbours will ſow diviſions among them; and, not having a mother-city to decide their controverſies by her authority, they may be apt to fall into quarrels, eſpecially if they profeſs chriſtianity; which having been ſplit into a variety of opinions ever ſince it was preached, and the papiſts, by their cruelty to ſuch as diſſent from them, ſhewing to all, that there is no other way of defending themſelves againſt them, than by uſing the ſame, almoſt every man is come to think he ought, as far as in him lies, to impoſe his belief on others, and that he can give no better teſtimony of his zeal, than the exceſs of his violence on that account. Nevertheleſs the cantons of the Switzers, though accompanied with all

* Deut. ch. 24, v. 5.

the

CHAP. II the moſt dangerous circumſtances that can be imagined, being thirteen in number, independent on each other, governed in a high degree popularly, profeſſing chriſtianity differing in moſt important points, eight of them much influenced by the Jeſuits, and perpetually excited to war againſt their brethren by the powerful crowns of Spain and France, have ever ſince they caſt off the inſupportable yoke of the earls of Habſpurg, enjoyed more peace than any other ſtate of Europe; and, from the moſt inconſiderable people, are grown to ſuch a power, that the greateſt monarchs do moſt ſolicitouſly ſeek their friendſhip; and none have dared to invade them, ſince Charles duke of Burgundy did it to his ruin. And he who for a long time had been a terror to the great, dangerous, and ſubtile king of France, gave by the loſs of three armies, and his own life, a laſting teſtimony of his temerity in aſſaulting a free and valiant, though a poor people, fighting in their own quarrel. Comines well relates that war *; but a vaſt heap of bones remaining to this day at Morat with this inſcription —" Caroli fortiſſimi Burgundiae ducis exercitus Muratum " obſidens, ab Helvetiis caeſus, hoc ſui monumentum reliquit †"— beſt ſhews the ſucceſs of it. Since that time their greateſt wars have been for the defence of Milan; or ſuch as they have undertaken for pay under the enſigns of France or Spain, that by the uſe of arms they may keep up that courage, reputation, and experience, which is required for the defence of their own country. No government was ever more free from popular ſeditions. The revolts of their ſubjects have been few, weak, and eaſily ſuppreſſed. The diſſention raiſed by the Jeſuits between the cantons of Zurich and Lucern was as ſoon compoſed as the rebellion of the country of Vaux againſt the canton of Bern; and thoſe few of the like nature that have happened among them have had the like ſucceſs. So that Thuanus, in the hiſtory of his time, comprehending about fifty years, and relating the horrid domeſtic and foreign wars that diſtracted Germany, France, Spain, Italy, Flanders, England, Scotland, Poland, Denmark, Sweden, Hungary, Tranſilvania, Muſcovy, Turky, Afric, and other places, has no more to ſay of them, than to ſhew, what arts had been in vain uſed to diſturb their ſo much envied quiet. But if the modeſt temper of the people, together with the wiſdom, juſtice, and ſtrength of their government, could not be diſcompoſed by the meaſures of Spain and France, by the induſtry of their embaſſadors, or the malicious

* Memoires de Ph. de Comines, l. 5, c. 1, 4

† The bones of the Burgundians are depoſited in a ſort of chapel, which ſtands on the high road to Avenches, about a quarter of a league from Morat. The inſcription is engraved on a plate of braſs, and, in its proper form, and at full length, is as follows:

D. O. M.
CAROLI INCLYTI ET FORTISSIMI
BURGUNDIAE DUCIS EXERCITUS
MURATUM OBSIDENS, AB HELVETIIS CAESUS,
HOC SUI MONUMENTUM RELIQUIT.
ANNO M. CCCC. LXXVI.

See Blainville's Trav. vol. 1, p. 353

craft

craft of the Jeſuits, we may ſafely conclude, that their ſtate is as well ſettled as any thing among men can be, and can hardly comprehend what is like to interrupt it. As much might be ſaid of the cities of the Hanſeatic ſociety, if they had an entire ſovereignty in themſelves. But the cities of the United Provinces in the Low Countries, being every one of them ſovereign within themſelves, and many in number, ſtill continuing in their union, in ſpite of all the endeavours that have been uſed to divide them, give us an example of ſuch ſteadineſs in practice and principle, as is hardly to be paralleled in the world, and that undeniably proves a temper in their conſtitutions directly oppoſite to that which our author imputes to all popular governments. And if the death of Barnevelt and de Witt, or the preferment of ſome moſt unlike to them, be taken for a teſtimony that the beſt men thrive worſt, and the worſt beſt, I hope it may be conſidered that thoſe violences proceeded from that which is moſt contrary to popularity, though I am not very willing to explain it. SECT. 22

If theſe matters are not clear in themſelves, I deſire they may be compared with what has happened between any princes that from the beginning of the world have been joined in league to each other, whether they were of the ſame or of different nations. Let an example be brought of ſix, thirteen, or more princes or kings, who entered into a league, and for the ſpace of one or more ages, did neither break it, nor quarrel upon the explication of it. Let the ſtates of the Switzers, Griſons, or Hollanders, be compared with that of France, when it was ſometimes divided between two, three, or four brothers of Meroveus or Pepin's races; with the heptarchy of England; the kingdoms of Leon, Arragon, Navarre, Caſtile, and Portugal, under which the chriſtians in Spain were divided; or thoſe of Cordova, Seville, Malaga, Granada, and others under the power of the Moors; and if it be not evident, that the popular ſtates have been remarkable for peace among themſelves, conſtancy to their union, and fidelity to the leagues made with their aſſociates; whereas all the above-mentioned kingdoms, and ſuch others as are known among men to have been joined in the like leagues, were ever infeſted with domeſtic rebellions and quarrels, ariſing from the ambition of princes, ſo that no confederacy could be ſo cautiouſly made, but they would find ways to elude it, or ſo ſolemn and ſacred, but they would in far leſs time break through it, I will confeſs, that kingdoms have ſometimes been as free from civil diſturbances; and that leagues made between ſeveral princes have been as conſtantly and religiouſly obſerved, as by commonwealths. But if no ſuch thing do appear in the world, and no man who is not impudent or ignorant dare pretend it, I may juſtly conclude, that though every commonwealth has its action ſuitable to its conſtitution, and that many aſſociated together are not ſo free from diſturbances, as thoſe that wholly depend upon the authority of a mother-city; yet we know of none that have not been, and are more regular and quiet than any principalities: and as to foreign wars, they ſeek or avoid them according to their various conſtitutions.

SECTION XXIII

THAT IS THE BEST GOVERNMENT WHICH BEST PROVIDES FOR WAR.

Our author, having huddled up all popular and mixed governments into one, has, in ſome meaſure, forced me to explain the various conſtitutions and principles upon which they are grounded. But as the wiſdom of a father is ſeen, not only in providing bread for his family, or increaſing his patrimonial eſtate, but in making all poſſible proviſion for the ſecurity of it; ſo that government is evidently the beſt, which, not relying upon what it does at firſt enjoy, ſeeks to increaſe the number, ſtrength, and riches, of the people; and by the beſt diſcipline to bring the power ſo improved into ſuch order, as may be of moſt uſe to the public. This comprehends all things conducing to the adminiſtration of juſtice, the preſervation of domeſtic peace, and the increaſe of commerce; that the people, being pleaſed with their preſent condition, may be filled with love to their country, encouraged to fight boldly for the public cauſe, which is their own; and, as men do willingly join with that which proſpers, that ſtrangers may be invited to fix their habitations in ſuch a city, and to eſpouſe the principles that reign in it. This is neceſſary for ſeveral reaſons; but I ſhall principally inſiſt upon one, which is, that all things in their beginning are weak. The whelp of a lion newly born has neither ſtrength nor fierceneſs. He that builds a city, and does not intend it ſhould increaſe, commits as great an abſurdity, as if he ſhould deſire his child might ever continue under the ſame weakneſs, in which he is born. If it do not grow, it muſt pine and periſh; for in this world nothing is permanent: that which does not grow better will grow worſe. This increaſe alſo is uſeleſs, or perhaps hurtful, if it be not in ſtrength, as well as in riches, or number; for every one is apt to ſeize upon ill-guarded treaſures. The terror that the city of London was poſſeſſed with, when a few Dutch ſhips came to Chatham, ſhews, that no numbers of men, though naturally valiant, are able to defend themſelves, unleſs they be well armed, diſciplined, and conducted. Their multitude brings confuſion; their wealth, when it is like to be made a prey, increaſes the fears of the owners; and they, who, if they were brought into good order, might conquer a great part of the world, being deſtitute of it, dare not think of defending themſelves.

If it be ſaid, that the wiſe father, mentioned by me, endeavours to ſecure his patrimony by law, not by force, I anſwer, that all defence terminates in force; and if a private man does not prepare to defend his eſtate with his own force, it is becauſe he lives under the protection of the law, and expects the force of the magiſtrate ſhould be a ſecurity to him. But kingdoms and commonwealths, acknowledging no ſuperior, except God alone, can reaſonably hope to be protected by him only; and by him,

him, if with induſtry and courage they make uſe of the means he has SECT. 25
given them for their own defence. God helps thoſe who help themſelves; and men are by ſeveral reaſons (ſuppoſe to prevent the increaſe of a ſuſpected power) induced to ſuccour an induſtrious and brave people: but ſuch as neglect the means of their own preſervation are ever left to periſh with ſhame. Men cannot rely upon any league. The ſtate that is defended by one potentate againſt another becomes a ſlave to its protector. Mercenary ſoldiers always want fidelity or courage, and moſt commonly both. If they are not corrupted or beaten by the invader, they make a prey of their maſters. Theſe are the followers of camps, who have neither faith nor piety, but prefer gain before right *. They, who expoſe their blood to ſale, look where they can make the beſt bargain, and never fail of pretences for following their intereſts.

Moreover, private families may by ſeveral arts increaſe their wealth, as they increaſe in number; but when a people multiplies, as they will always do in a good climate under a good government, ſuch an enlargement of territory, as is neceſſary for their ſubſiſtence, can be acquired only by war. This was known to the northern nations that invaded the Roman empire: but for want of ſuch conſtitutions as might beſt improve their ſtrength and valour, the numbers they ſent out when they were over-burdened, provided well for themſelves, but were of no uſe to the countries they left; and while thoſe Goths, Vandals, Franks, and Normans, enjoyed the moſt opulent and delicious provinces of the world, their fathers languiſhed obſcurely in their frozen climates. For the like reaſons, or through the ſame defect, the Switzers are obliged to ſerve other princes; and often to employ that valour, in advancing the power of their neighbours, which might be uſed to increaſe their own. Genoa, Lucca, Geneva, and other ſmall commonwealths, having no wars, are not able to nouriſh the men they breed; but ſending many of their children to ſeek their fortunes abroad, ſcarce a third part of thoſe that are born among them die in thoſe cities; and if they did not take this courſe, they would have no better than the nations inhabiting near the river Niger, who ſell their children as the increaſe of their flocks.

This does not leſs concern monarchies than commonwealths; nor the abſolute leſs than the mixed: all of them have been proſperous or miſerable, glorious or contemptible, as they were better or worſe armed, diſciplined, or conducted. The Aſſyrian valour was irreſiſtible under Nabuchodonozor; but was brought to nothing under his baſe and luxurious grandſon Belſhazzar. The Perſians, who under Cyrus conquered Aſia, were like ſwine expoſed to ſlaughter, when their diſcipline failed, and they were commanded by his proud, cruel, and cowardly ſucceſſors. The Macedonian army overthrown by Paulus Aemilius was not leſs in number,

* Nulla fides, pietaſque viris, qui caſtra ſequuntur,
Venalesque manus: ibi fas, ubi maxima merces.
Luc. Pharſ. l. 10, v. 407

CHAP. II than that with which Alexander gained the empire of the eaſt; and perhaps had not been inferior in valour, if it had been as well commanded. Many poor and almoſt unknown nations have been carried to ſuch a height of glory by the bravery of their princes, that I might incline to think their government as fit as any other for diſciplining a people to war, if their virtues continued in their families, or could be tranſmitted to their ſucceſſors. The impoſſibility of this is a breach never to be repaired; and no account is to be made of the good that is always uncertain, and ſeldom enjoyed. This diſeaſe is not only in abſolute monarchies, but in thoſe alſo where any regard is had to ſucceſſion of blood, though under the ſtricteſt limitations. The fruit of all the victories gained by Edward the firſt and third, or Henry the fifth of England, periſhed by the baſeneſs of their ſucceſſors. The glory of our arms was turned into ſhame; and we, by the loſs of treaſure, blood and territory, ſuffered the puniſhment of their vices. The effects of theſe changes are not always equally violent; but they are frequent, and muſt fall out as often as occaſion is preſented. It was not poſſible for Lewis the thirteenth of France to purſue the great deſigns of Henry the fourth. Chriſtina of Sweden could not ſupply the place of her brave father; nor the preſent king in his infancy accompliſh what the great Charles Guſtavus had nobly undertaken. And no remedy can be found for this mortal infirmity, unleſs the power be put into the hands of thoſe who are able to execute it, and not left to the blindneſs of fortune. When the regal power is committed to an annual or otherwiſe choſen magiſtracy, the virtues of excellent men are of uſe, but all does not depend upon their perſons: one man finiſhes what another had begun; and when many are by practice rendered able to perform the ſame things, the loſs of one is eaſily ſupplied by the election of another. When good principles are planted, they do not die with the perſon that introduced them; and good conſtitutions remain, though the authors of them periſh. Rome did not fall back into ſlavery when Brutus was killed, who had led them to recover their liberty. Others like to him purſued the ſame ends. And notwithſtanding the loſs of ſo many great commanders conſumed in their almoſt continual wars, they never wanted ſuch as were fit to execute whatever they could deſign. A well-governed ſtate is as fruitful to all good purpoſes, as the ſeven-headed ſerpent is ſaid to have been in evil: when one head is cut off, many riſe up in the place of it. Good order being once eſtabliſhed makes good men; and as long as it laſts, ſuch as are fit for the greateſt employments will never be wanting. By theſe means the Romans could not be ſurpriſed: no king or captain ever invaded them, who did not find many excellent commanders to oppoſe him. Whereas they themſelves found it eaſy to overthrow kingdoms, though they had been eſtabliſhed by the braveſt princes, through the baſeneſs of their ſucceſſors.

But if our author ſay true, it is of no advantage to a popular ſtate to have excellent men; and therefore he impoſes a neceſſity upon every people to chooſe the worſt men for being the worſt, and moſt like to themſelves;

themſelves; "leſt, if virtuous and good men ſhould come into power, SECT. 23
"they ſhould be excluded for being vicious and wicked. Wiſe men "would ſeize upon the ſtate, and take it from the people." For the underſtanding of theſe words, it is good to conſider, whether they are to be taken ſimply, as uſually applied to the devil, and ſome of his inſtruments, or relatively, as to the thing in queſtion. If ſimply, it muſt be concluded, that Valerius, Brutus, Cincinnatus, Capitolinus, Mamercus, Aemilius, Naſica, and others like to them, were not only the worſt men of the city; but that they were ſo often advanced to the ſupreme magiſtracies, becauſe they were ſo: if in the other ſenſe relating to magiſtracy, and the command of armies, the worſt are the moſt ignorant, unfaithful, ſlothful, or cowardly; and our author to make good his propoſition, muſt prove, that when the people of Rome, Carthage, Athens, and other ſtates, had the power of chooſing whom they pleaſed, they did chooſe Camillus, Corvinus, Torquatus, Fabius, Scipio, Amilcar, Hannibal, Aſdrubal, Pelopidas, Epaminondas, Pericles, Ariſtides, Themiſtocles, Phocion, Alcibiades, and others like to them, for their ignorance, infidelity, ſloth, and cowardice; and on account of thoſe vices, moſt like to thoſe who choſe them. But if theſe were the worſt, I deſire to know, what wit or eloquence can deſcribe or comprehend the excellency of the beſt, or of the diſcipline that brought whole nations to ſuch perfection, that worſe than theſe could not be found among them: and if they were not ſo, but ſuch as all ſucceeding ages have juſtly admired for their wiſdom, virtue, induſtry, and valour, the impudence of ſo wicked and falſe an aſſertion ought to be rejected with ſcorn and hatred.

But if all governments, whether monarchical or popular, abſolute or limited, deſerve praiſe or blame as they are well or ill conſtituted for making war; and if the attainment of this end do entirely depend upon the qualifications of the commanders, and the ſtrength, courage, number, affection, and temper of the people out of which the armies are drawn, thoſe governments muſt neceſſarily be the beſt, which take the beſt care that thoſe armies may be well commanded; and ſo provide for the good of the people, that they may daily increaſe in number, courage, and ſtrength, and be ſo ſatisfied with the preſent ſtate of things, as to fear a change, and fight for the preſervation or advancement of the public intereſt, as of their own. We have already found, that in hereditary monarchies no care at all is taken of the commander: he is not choſen, but comes by chance; and does not only frequently prove defective, but for the moſt part utterly incapable of performing any part of his duty. Whereas in popular governments excellent men are generally choſen; and there are ſo many of them, that if one or more periſh, others are ready to ſupply their places. And this diſcourſe having, if I miſtake not, in the whole ſeries, ſhewn, that the advantages of popular governments, in relation to the increaſe of courage, number, and ſtrength in a people, out of which armies are to be formed, and bringing them to ſuch a temper as prepares them bravely to perform their duty, are as much

above

CHAP. II above thoſe monarchies, as the prudence of choice ſurpaſſes the accidents of birth, it cannot be denied, that, in both reſpects, the part which relates to war is much better performed in popular governments, than in monarchies.

That which we are by reaſon led to believe, is confirmed to us by experience. We every where ſee the difference between the courage of men fighting for themſelves, and their poſterity, and thoſe that ſerve a maſter, who by good ſucceſs is often rendered inſupportable. This is of ſuch efficacy, that no king could ever boaſt to have overthrown any conſiderable commonwealth, unleſs it was divided within itſelf, or weakened by wars made with ſuch as were alſo free; which was the caſe of the Grecian commonwealths, when the Macedonians fell in upon them. Whereas the greateſt kingdoms have been eaſily deſtroyed by commonwealths; and theſe alſo have loſt all ſtrength, valour, and ſpirit, after the change of their government. The power and virtue of the Italians grew up, decayed, and periſhed, with their liberty. When they were divided into many commonwealths, every one of them was able to ſend out great armies, and to ſuffer many defeats before they were ſubdued; ſo that their cities were delivered up by the old men, women, and children, when all thoſe who were able to bear arms had been ſlain. And when they were all brought under the Romans, either as aſſociates or ſubjects, they made the greateſt ſtrength that ever was in the world.

Alexander of Epirus was in valour thought equal, and in power little inferior, to Alexander of Macedon. But having the fortune to attack thoſe who had been brought up in liberty, taught to hazard or ſuffer all things for it, and to think that God has given to men hands and ſwords only to defend it, he periſhed in his attempt; while the other encountering ſlaviſh nations, under the conduct of proud, cruel, and for the moſt part unwarlike tyrants, became maſter of Aſia.

Pyrrhus ſeems to have been equal to either of them. But the victories he obtained by an admirable valour and conduct, coſt him ſo dear, that he deſired peace with thoſe enemies who might be defeated, not ſubdued.

Hannibal, wanting the prudence of Pyrrhus, loſt the fruits of all his victories; and being torn out of Italy, where he had neſted himſelf, fell under the ſword of thoſe, whoſe fathers he had defeated or ſlain; and died a baniſhed man from his ruined country.

The Gauls did once bring Rome, when it was ſmall, to the brink of deſtruction: but they left their carcaſes to pay for the miſchiefs they had done. And in ſucceeding times their invaſions were mentioned as tumults rather than wars.

The Germans did perhaps ſurpaſs them in numbers and ſtrength, and were equal to them in fortune, as long as Rome was free. They often entered Italy; but they continued not long there, unleſs under the weight of their chains. Whereas the ſame nations, and others like to them, aſſaulting that country, or other provinces under the emperors, found no other difficulty, than what aroſe upon conteſts among themſelves, who ſhould be maſter of them. No manly virtue or diſciplin e remained among

the Italians. Thoſe who governed them relied upon tricks and ſhifts; and they, who could not defend themſelves, hired ſome of thoſe nations to undertake their quarrels againſt others. Theſe trinklings could not laſt. The Goths, ſcorning to depend upon thoſe who in valour and ſtrength were much inferior to themſelves, ſeized upon the city that had commanded the world, whilſt Honorius was ſo buſy in providing for his hens, that he could not think of defending it *. Arcadius had the luck not to loſe his principal city; but paſſing his time among fidlers, players, eunuchs, cooks, dancers, and buffoons, the provinces were ſecurely plundered and ranſacked by nations, that are known only from their victories againſt him. SECT. 23.

It is in vain to ſay, that this proceeded from the fatal corruption of that age; for that corruption proceeded from the government, and the enſuing deſolation was the effect of it. And as the like diſorder in government has been ever ſince in Greece, and the greateſt part of Italy, thoſe countries which for extent, riches, convenience of ſituation, and numbers of men, are equal to the beſt in the world, and for the wit, courage, and induſtry of the natives, perhaps juſtly preferable to any, have ſince that time been always expoſed as a prey to the firſt invader. Charles the eighth of France is by Guicciardini, and other writers, repreſented as a prince equally weak in body, mind, money, and forces: but, as an ill hare is ſaid to make a good dog, he conquered the beſt part of Italy without breaking a lance. Ferdinand and Alphonſo of Arragon, kings of Naples, had governed by trepanners, falſe witneſſes, corrupt judges, mercenary ſoldiers, and other miniſters of iniquity: but theſe could afford no help againſt an invader. And neither the oppreſſed nobility, nor people, concerning themſelves in the quarrel, they who had been proud, fierce, and cruel, againſt their poor ſubjects, never durſt look an enemy in the face; and the father dying with anguiſh and fear, the ſon ſhamefully fled from his ill-governed kingdom.

The ſame things are no leſs evident in Spain. No people ever defended themſelves with more obſtinacy and valour than the Spaniards did againſt the Carthaginians and Romans, who ſurpaſſed them in wealth and ſkill. Livy calls them "gentem ad bella gerenda et reparanda natam," and who generally killed themſelves when they were maſtered and diſarmed, "nullam ſine armis vitam eſſe rati †." But though the mixture of Roman blood could not impair their race, and the conjunction of the Goths had improved their force; yet no more was required for the overthrow of them all, than the weakneſs and baſeneſs of the two lewd tyrants Vitiza and

* Aiunt Honorio Ravennae agenti eunuchorum unum, aviario praepoſitum, attuliſſe nuntium, Romam periſſe, eoque audito exclamaſſe principem, "atqui modò de manu meâ comêdit," de gallo gallinaceo tunc quoque cogitantem, quem immenſae magnitudinis Romam vocabat. At eunuchum intellecto errore explicatè dixiſſe, amiſſam Romam, capiente Alaricho: illum verò, tanto ſtupore fuiſſe dicitur, regeſſiſſe: "at ego, amice, gallum Romam nobis periiſſe ſeriò exiſtimabam." Procop. Hiſt. Vandal. l. 1

† Hiſpania non quàm Italia modò, ſed quàm ulla pars terrarum bello reparando aptior erat, locorum hominumque ingeniis. Liv. l. 28, c. 12.

Ferox gens nullam vitam ratiſne armis eſſe. Id. l. 34, c. 17.

Roderic,

CHAP. II Roderic, who diſdained all laws, and reſolved to govern according to their luſt. They, who for more than two hundred years had reſiſted the Romans, were entirely ſubdued by the vile, half-naked Moors, in one ſlight ſkirmiſh; and do not to this day know what became of the king who brought the deſtruction upon them. That kingdom, after many revolutions, is with many others come to the houſe of Auſtria, and enjoys all the wealth of the Indies; whereupon they are thought to have affected an univerſal monarchy. "Sed ut ſunt levia aulicorum ingenia," this was grounded upon nothing except their own vanity. They had money and craft; but, wanting that ſolid virtue and ſtrength, which makes and preſerves conqueſts, their kings have nothing but Milan, that did not come to them by marriage. And though they have not received any extraordinary diſaſters in war, yet they languiſh and conſume through the defects of their own government, and are forced to beg aſſiſtance from their mortal and formerly deſpiſed enemies. Theſe are the beſt hopes of defence that they have from abroad; and the only enemy an invader ought to fear in their deſolate territories, is that want and famine which teſtifies the good order, ſtrength, and ſtability of our author's divine monarchy, the profound wiſdom of their kings in ſubtilly finding out ſo ſure a way of defending the country, their paternal care in providing for the good of their ſubjects, and that whatever is defective in the prince, is aſſuredly ſupplied by the ſedulity of a good council.

We have already ſaid enough to obviate the objections that may be drawn from the proſperity of the French monarchy. The beauty of it is falſe and painted. There is a rich and haughty king, who is bleſſed with ſuch neighbours as are not likely to diſturb him, and has nothing to fear from his miſerable ſubjects. But the whole body of that ſtate is full of boils, and wounds, and putrid ſores: there is no real ſtrength in it. The people are ſo unwilling to ſerve him, that he is ſaid to have put to death above fourſcore thouſand of his own ſoldiers within the ſpace of fifteen years, for flying from their colours; and if he were vigorouſly attacked, little help could be expected from a diſcontented nobility, or a ſtarving and deſpairing people. If to diminiſh the force of theſe arguments and examples, it be ſaid, that in two or three thouſand years all things are changed, the antient virtue of mankind is extinguiſhed, and the love that every one had to his country is turned into a care of his private intereſts, I anſwer, that time changes nothing, and the changes produced in this time proceed only from the change of governments. The nations which have been governed arbitrarily, have always ſuffered the ſame plagues, and been infected with the ſame vices: which is as natural, as for animals ever to generate according to their kinds, and fruits to be of the ſame nature with the roots and ſeeds from which they come. The ſame order that made men valiant and induſtrious in the ſervice of their country during the firſt ages, would have the ſame effect, if it were now in being. Men would have the ſame love to the public as the Spartans and Romans had, if there was the ſame reaſon for it. We need

need no other proof of this, than what we have ſeen in our own country, SECT. 23
where, in a few years, good diſcipline, and a juſt encouragement given to thoſe who did well, produced more examples of pure, complete, incorruptible, and invincible virtue, than Rome or Greece could ever boaſt; or if more be wanting, they may eaſily be found among the Switzers, Hollanders, and others: but it is not neceſſary to light a candle to the ſun.

SECTION XXIV

POPULAR GOVERNMENTS ARE LESS SUBJECT TO CIVIL DISORDERS THAN MONARCHIES, MANAGE THEM MORE ABLY, AND MORE EASILY RECOVER OUT OF THEM.

It is in vain to ſeek a government in all points free from a poſſibility of civil wars, tumults, and ſeditions: that is a bleſſing denied to this life, and reſerved to complete the felicity of the next. But if theſe are to be accounted the greateſt evils that can fall upon a people, the rectitude or defects of governments will beſt appear, if we examine which ſpecies is more or leſs expoſed to or exempted from them.

This may be done two ways.

1. By ſearching into the cauſes from whence they may or uſually do ariſe.

2. By inquiring which kind has actually been moſt frequently and dangerouſly diſturbed by them.

1. Seditions, tumults, and wars, do ariſe from miſtake, or from malice, from juſt occaſions, or unjuſt: from miſtake, when a people thinks an evil to be done or intended, which is not done nor intended, or takes that to be evil which is done, though in truth it be not ſo. Well-regulated cities may fall into theſe errors. The Romans, being jealous of their newly recovered liberty, thought that Valerius Publicola deſigned to make himſelf king, when he built a houſe in a place that ſeemed too ſtrong and eminent for a private man. The Spartans were not leſs ſuſpicious of Lycurgus; and a lewd young fellow in a ſedition put out one of his eyes. But no people ever continued in a more conſtant affection to their beſt deſerving citizens, than both the Romans and Spartans afterwards manifeſted to thoſe virtuous and wrongfully ſuſpected men.

Sometimes the fact is true, but otherwiſe underſtood than was intended. When the Tarquins were expelled from Rome, the patricians retained to themſelves the principal magiſtracies; but never thought of bringing back kings, or of ſetting up a corrupt oligarchy among themſelves, as the plebeians imagined. This miſtake being diſcovered, the fury they had conceived, vaniſhed; and they, who ſeemed to intend nothing leſs than the extirpation of all the patrician families, grew quiet. Menenius Agrippa appeaſed one of the moſt violent ſeditions that ever happened among them (till civil intereſts were purſued by armed troops) with a fable

CHAP. II of the ſeveral parts of the body that murmured againſt the belly *: and the moſt dangerous of all was compoſed by creating tribunes to protect them. Some of the patrician young men had favoured the decemviri, and others being unwilling to appear againſt them, the people believed they had all conſpired with thoſe new tyrants. But Valerius and Horatius putting themſelves at the head of thoſe who ſought their deſtruction, they perceived their error, and looked upon the patricians as the beſt defenders of their liberties: "et indè," ſays Livy, "auram libertatis captare, undè "ſervitutem timuiſſent †." Democratical governments are moſt liable to theſe miſtakes: in ariſtocracies they are ſeldom ſeen. We hear of none in Sparta, after the eſtabliſhment of the laws by Lycurgus: but abſolute monarchies ſeem to be totally exempted from them. The miſchiefs deſigned are often diſſembled or denied, till they are paſt all poſſibility of being cured by any other way than force. And ſuch as are by neceſſity driven to uſe that remedy know they muſt perfect their work, or periſh. He that draws his ſword againſt the prince, ſay the French, ought to throw away the ſcabbard: for though the deſign be ever ſo juſt, yet the authors are ſure to be ruined if they miſcarry. Peace is ſeldom made, and never kept, unleſs the ſubject retain ſuch a power in his hands, as may oblige the prince to ſtand to what is agreed: and in time ſome trick is found to deprive them of that benefit.

Seditions proceeding from malice are ſeldom or never ſeen in popular governments; for they are hurtful to the people, and none have ever willingly and knowingly hurt themſelves. There may be, and often is malice in thoſe who excite them; but the people are ever deceived, and whatever is thereupon done ought to be imputed to error, as I ſaid before. If this be diſcovered in time, it uſually turns to the deſtruction of the contriver; as in the caſes of Manlius Capitolinus, Spurius Moelius, and Spurius Caſſius: if not, for the moſt part it produces a tyranny, as in thoſe of Agathocles, Dionyſius, Piſiſtratus, and Caeſar. But in abſolute monarchies, almoſt all the troubles that ariſe proceed from malice. They cannot be reformed, the extinction of them is exceeding difficult, if they have continued long enough to corrupt the people; and thoſe who appear againſt them, ſeek only to ſet up themſelves, or their friends. Thus we ſee, that in the civil wars of the eaſt, the queſtion was, whether Artaxerxes or Cyrus, Phraates or Bardanes, ſhould reign over the Perſians and Parthians: the people ſuffered equally from both while the conteſts laſted; and the deciſion left them under the power of a proud and cruel maſter. The like is ſeen in all places. After the death of Brutus and Caſſius, no war was ever undertaken in the Roman empire upon a better account than one man's private concernments: the provinces ſuffered under all; and he, whom they had aſſiſted to overthrow one wicked tyrant, very often proved worſe than his predeceſſor. The only ground of all the diſſentions, with which France was vexed under the princes of Meroveus and

* Liv. l. 2, c. 32. † Liv. l. 3, c. 37.

Pepin's

Pepin's races, were, which of them ſhould reign, the people remaining miſerable under them all. SECT. 24

The caſe is not much different in mixed monarchies. Some wars may be undertaken upon a juſt and public account, but the pretences are commonly falſe: a laſting reformation is hardly introduced, an entire change often diſliked. And though ſuch kingdoms are frequently and terribly diſtracted, as appears by the before-mentioned examples of England, Spain, &c. the quarrels are, for the moſt part, begun upon perſonal titles, as between Henry the firſt and Robert, Stephen and Maud, or the houſes of Lancaſter and York. And the people, who get nothing by the victory which way ſoever it fall, and might therefore prudently leave the competitors to decide their own quarrels, like Eteocles and Polynices, with their own ſwords, become cruelly engaged in them.

It may ſeem ſtrange to ſome that I mention ſeditions, tumults, and wars, upon juſt occaſions; but I can find no reaſon to retract the term. God, intending that men ſhould live juſtly with one another, does certainly intend, that he or they, who do no wrong, ſhould ſuffer none; and the law that forbids injuries were of no uſe, if no penalty might be inflicted on thoſe who will not obey it. If injuſtice therefore be evil, and injuries forbidden, they are alſo to be puniſhed; and the law inſtituted for their prevention muſt neceſſarily intend the avenging of ſuch as cannot be prevented. The work of the magiſtracy is to execute this law: the ſword of juſtice is put into their hands to reſtrain the fury of thoſe within the ſociety, who will not be a law to themſelves; and the ſword of war to protect the people againſt the violence of foreigners. This is without exception, and would be in vain if it were not. But the magiſtrate, who is to protect the people from injury, may, and is often known not to have done it. He ſometimes renders his office uſeleſs by neglecting to do juſtice; ſometimes miſchievous by overthrowing it. This ſtrikes at the root of God's general ordinance, that there ſhould be laws, and the particular ordinances of all ſocieties, that appoint ſuch as ſeem beſt to them. The magiſtrate therefore is comprehended under both, and ſubject to both, as well as private men.

The ways of preventing or puniſhing injuries are judicial or extrajudicial. Judicial proceedings are of force againſt thoſe who ſubmit or may be brought to trial; but are of no effect againſt thoſe who reſiſt, and are of ſuch power that they cannot be conſtrained. It were abſurd to cite a man to appear before a tribunal who can awe the judges, or has armies to defend him; and impious to think, that he, who has added treachery to his other crimes, and uſurped a power above the law, ſhould be protected by the enormity of his wickedneſs. Legal proceedings therefore are to be uſed when the delinquent ſubmits to the law; and all are juſt, when he will not be kept in order by the legal.

The word ſedition is generally applied to all numerous aſſemblies, without or againſt the authority of the magiſtrate, or of thoſe who aſſume that power. Athaliah and Jezebel were more ready to cry out treaſon

CHAP. II than David: and examples of that ſort are ſo frequent, that I need not allege them.

Tumult is from the diſorderly manner of thoſe aſſemblies, where things can ſeldom be done regularly; and war is that "decertatio per vim," or trial by force, to which men come when other ways are ineffectual *.

If the laws of God and men are therefore of no effect, when the magiſtracy is left at liberty to break them, and if the luſts of thoſe, who are too ſtrong for the tribunals of juſtice, cannot be otherwiſe reſtrained, than by ſedition, tumults, and war, thoſe ſeditions, tumults, and wars, are juſtified by the laws of God and man.

I will not take upon me to enumerate all the caſes in which this may be done, but content myſelf with three, which have moſt frequently given occaſion for proceedings of this kind.

The firſt is, when one or more men take upon them the power and name of a magiſtracy, to which they are not juſtly called.

The ſecond, when one or more, being juſtly called, continue in their magiſtracy longer than the laws by which they are called do preſcribe.

And the third, when he or they, who are rightly called, do aſſume a power, though within the time preſcribed, that the law does not give; or turn that which the law does give, to an end different and contrary to that which is intended by it.

For the firſt, Filmer forbids us to examine titles. He tells us, we muſt ſubmit to the power, whether acquired by uſurpation or otherwiſe; not obſerving the miſchievous abſurdity of rewarding the moſt deteſtable villainies with the higheſt honours, and rendering the veneration due to the ſupreme magiſtrate, as father of the people, to one who has no other advantage above his brethren, than what he has gained by injuriouſly diſpoſſeſſing or murdering him that was ſo. Hobbes, fearing the advantages that may be taken from ſuch deſperate nonſenſe, or not thinking it neceſſary to his end to carry the matter ſo far, has no regard at all to him who comes in without title or conſent; and, denying him to be either king or tyrant, gives him no other name than "hoſtis et latro;" and allows all things to be lawful againſt him, that may be done to a public enemy or pirate †; which is as much as to ſay, any man may deſtroy him how he can. Whatever he may be guilty of in other reſpects, he does in this follow the voice of mankind, and the dictates of common ſenſe: for no man can make himſelf a magiſtrate for himſelf; and no man can have the right of a magiſtrate, who is not a magiſtrate. If he be juſtly accounted

* Cicero dixit bellum certationem per vim. Grot. de Jure Belli, l. 1, c. 1, § 2.—— Cum ſint duo genera decertandi, unum per diſceptationem, alterum per vim; cumque illud proprium ſit hominis, hoc belluarum, confugiendum eſt ad poſterius, ſi uti non licet ſuperiore. Cic. de Offic. l. 1, § 34

† Si in civitate democraticâ, vel ariſtocraticâ, ſummum imperium civis aliquis vi occuparet, habito civium conſenſu, legitimus ſit monarcha; eo conſenſu non habito, hoſtis eſt, non tyrannus. Hobbes de Cive, c. 7, § 3

Is quem occidi, ut tyrannum, volunt, vel jure imperat, vel abſque jure: ſi abſque jure, hoſtis eſt, et jure occiditur. Ibid. c. 12, § 3.

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an enemy to all, who injures all, he above all muſt be the public enemy of a nation, who, by uſurping a power over them, does the greateſt and moſt public injury that a people can ſuffer. For which reaſon, by an eſtabliſhed law among the moſt virtuous nations, every man might kill a tyrant; and no names are recorded in hiſtory with more honour, than of thoſe who did it. SECT. 24

Theſe are by other authors called "tyranni ſine titulo." And that name is given to all thoſe who obtain the ſupreme power by illegal and unjuſt means. The laws which they overthrow can give them no protection; and every man is a ſoldier againſt him who is a public enemy.

The ſame rule holds, though they are more in number; as the magi, who uſurped the dominion of Perſia after the death of Cambyſes; the thirty tyrants at Athens overthrown by Thraſybulus; thoſe of Thebes ſlain by Pelopidas; the decemviri of Rome, and others. For though the multitude of offenders may ſometimes procure impunity, yet that act which is wicked in one, muſt be ſo in ten or twenty; and whatever is lawful againſt one uſurper is ſo againſt them all.

2. If thoſe who were rightly created continue beyond the time limited by the law, it is the ſame thing. That which is expired is as if it had never been. He that was created conſul for a year, or dictator for ſix months, was after that a private man; and, if he had continued in the exerciſe of his magiſtracy, had been ſubject to the ſame puniſhment as if he had uſurped it at the firſt. This was known to Epaminondas; who finding that his enterprize againſt Sparta could not be accompliſhed within the time for which he was made Boeotarchon, rather choſe to truſt his countrymen with his life than to deſiſt *; and was ſaved merely through an admiration of his virtue, aſſurance of his good intentions, and the glory of the action.

The Roman decemviri, though duly elected, were proceeded againſt as private men uſurping the magiſtracy, when they continued beyond their time. Other magiſtrates had ceaſed; there was none that could regularly call the ſenate or people to an aſſembly. But when their ambition was manifeſt, and the people exaſperated by the death of Virginia, they laid aſide all ceremonies. The ſenate and people met; and, exerciſing their authority in the ſame manner, as if they had been regularly called by the magiſtrate appointed to that end, they abrogated the power of the decemviri, proceeded againſt them as enemies and tyrants, and by that means preſerved themſelves from utter ruin.

3. The ſame courſe is juſtly uſed againſt a legal magiſtrate, who takes upon him, though within the time preſcribed by the law, to exerciſe a power which the law does not give; for in that reſpect he is a private

* Lex erat Thebis, quae morte mulabat, ſi quis imperium diutius retinuiſſet, quàm lege praefinitum foret. Hanc Epaminondas, cum reipùblicae conſervandae cauſâ latam videret, ad perniciem civitatis conferre noluit; et quatuor menſibus diutius, quam populus juſſerat, geſſit imperium. Nep. in vitâ Epam. c. 7. Xen. Hiſt. Graec. l. 7. Plut. in vitâ Pelopidae.

man,

CHAP. II man, " quia," " as Grotius ſays, eatenùs non habet imperium *," and may be reſtrained as well as any other, becauſe he is not ſet up to do what he liſts, but what the law appoints for the good of the people; and as he has no other power than what the law allows, ſo the ſame law limits and directs the exerciſe of that which he has. This right, naturally belonging to nations, is no way impaired by the name of ſupreme given to their magiſtrates; for it ſignifies no more, than that they do act ſovereignly in the matters committed to their charge. Thus are the parliaments of France called " cours ſouveraines;" for they judge of life and death, determine controverſies concerning eſtates, and there is no appeal from their decrees. But no man ever thought, that it was therefore lawful for them to do what they pleaſed; or that they might not be oppoſed, if they ſhould attempt to do that which they ought not. And though the Roman dictators and conſuls were ſupreme magiſtrates, they were ſubject to the people, and might be puniſhed, as well as others, if they tranſgreſſed the law. Thuanus carries the word ſo far, that when Burlota, Giuſtiniano, and others who were but colonels, were ſent as commanders in chief of three or four thouſand men upon an enterprize, he always ſays, " ſummum imperium ei delatum †." Grotius explains this point, by diſtinguiſhing thoſe who have the " ſummum imperium ſummo modo," from thoſe who have it " modo non ſummo ‡." I know not where to find an example of this ſovereign power, enjoyed without reſtriction, under a better title than " occupation;" which relates not to our purpoſe, who ſeek only that which is legal and juſt. Therefore, laying aſide that point for the preſent, we may follow Grotius in examining the right of thoſe who are certainly limited, " ubi partem imperii habet rex, partem ſenatus " ſive populus:" in which caſe he ſays, " regi in partem non ſuam " involanti vis juſta opponi poteſt;" inaſmuch as they who have a part cannot but have a right of defending that part; " quia, datâ facultate, " datur jus facultatem tuendi," without which it could be of no effect §.

The particular limits of the rights belonging to each can only be judged by the preciſe letter, or general intention of the law. The dukes of Venice have certainly a part in the government, and could not be called magiſtrates, if they had not. They are ſaid to be ſupreme: all laws and public acts bear their names. The embaſſador of the ſtate, ſpeaking to

* Si rex partem habeat ſummi imperii, partem alteram populus, aut ſenatus, regi in partem non ſuam involanti vis juſta opponi poterit, quia eatenùs imperium non habet. Quod locum habere cenſeo, etiamſi dictum ſit, belli poteſtatem penes regem fore: id enim de bello externo intelligendum eſt; cum alioqui quiſquis imperii ſummi partem habeat non poſſit non jus habere eam partem tuendi: quod ubi fit, poteſt rex etiam ſuam imperii partem belli jure amittere. Grot. de Jure Belli, l. 1, c. 4, § 13

† Fontano ſecundum Ronaeum praecipuus obſidionis perſequendae auctor erat Burlota: ei cura data, ut ex Ronaei conſilio cuncta in vallo tuendo ordinaret, et cum ſummo imperio in eo praeeſſet. Thuan. Hiſt. l. 113, p. 562. Edit. Genev. 1626. —— Urbi cum ſummo imperio praeerat Loeus caſtrorum praefectus. Ibid. l. 45, p. 592. —— In iis erant DCCC equites, quibus cum ſummo imperio praeerat S. Sforția, comes Sanſiorius. Ibid. l. 45, p. 577

‡ Grot. de Jure Belli, l. 1, c. 3, § 16 § Ibid. l. 1, c. 4, § 13

pope

pope Paul the fifth, denied that he acknowledged any other ſuperior beſides God *. But they are ſo well known to be under the power of the law, that divers of them have been put to death for tranſgreſſing it; and a marble gallows is ſeen at the foot of the ſtairs in St. Mark's palace, upon which ſome of them, and no others, have been executed. But if they may be duly oppoſed, when they commit undue acts, no man of judgement will deny, that if one of them by an outrageous violence ſhould endeavour to overthrow the law, he might by violence be ſuppreſſed and chaſtiſed. SECT. 24

Again, ſome magiſtrates are entruſted with a power of providing ſhips, arms, ammunition, and victuals for war, raiſing and diſciplining ſoldiers, appointing officers to command in forts and garriſons, and making leagues with foreign princes and ſtates. But if one of theſe ſhould imbezzle, ſell, or give to an enemy thoſe ſhips, arms, ammunition, or proviſions, betray the forts, employ only or principally ſuch men as will ſerve him in thoſe wicked actions, and, contrary to the truſt repoſed in him, make ſuch leagues with foreigners, as tend to the advancement of his perſonal intereſts, and to the detriment of the public, he abrogates his own magiſtracy; and the right he had, periſhes, as the lawyers ſay, "fruſtratione finis." He cannot be protected by the law which he has overthrown, nor obtain impunity for his crimes from the authority that was conferred upon him, only that he might do good with it. He was "ſingulis major," on account of the excellence of his office; but "uni-"verſis minor," from the nature and end of his inſtitution. The ſureſt way of extinguiſhing his prerogative was by turning it to the hurt of thoſe who gave it. When matters are brought to this poſture, the author of the miſchief, or the nation, muſt periſh. A flock cannot ſubſiſt under a ſhepherd that ſeeks its ruin, nor a people under an unfaithful magiſtrate. Honour and riches are juſtly heaped upon the heads of thoſe who rightly perform their duty, becauſe the difficulty as well as the excellency of the work is great. It requires courage, experience, induſtry, fidelity, and wiſdom. "The good ſhepherd, ſays our Saviour, lays down his life for "his ſheep." The hireling, who flies in time of danger, is repreſented under an ill character; but he that ſets himſelf to deſtroy his flock, is a wolf. His authority is incompatible with their ſubſiſtence. And whoever diſapproves tumults, ſeditions, or war, by which he may be removed from it, if gentler means are ineffectual, ſubverts the foundation of all law, exalts the fury of one man to the deſtruction of a nation, and giving an irreſiſtible power to the moſt abominable iniquity, expoſes all that are good to be deſtroyed, and virtue to be utterly extinguiſhed.

Few will allow ſuch a pre-eminence to the dukes of Venice or Genoa; the avoyers of Switzerland †, or the burgomaſters of Amſterdam. Many

* Venetorum princeps neminem in temporalibus praeter Deum ſe ſuperiorem agnoſcit. Thuan. Hiſt. l. 137, p. 1250, 1258. Edit. Genev. 1626

† Les juges de Suiſſe s' appellent encore avoyers, c'eſt à dire, defenſeurs de la juſtice, et du peuple opprimé. Dict. Univ. par M. Furetiere.

will

CHAP. II will ſay theſe are raſcals if they prove falſe, and ought rather to be hanged, than ſuffered to accompliſh the villainies they deſign. But if this be confeſſed in relation to the higheſt magiſtrates that are among thoſe nations, why ſhould not the ſame be in all others, by what name ſoever they are called? When did God confer upon thoſe nations the extraordinary privilege of providing better for their own ſafety than others? Or was the gift univerſal, though the benefit accrue only to thoſe who have baniſhed great titles from among them? If this be ſo, it is not their felicity, but their wiſdom, that we ought to admire and imitate. But why ſhould any think their anceſtors had not the ſame care? Have not they, who retained in themſelves a power over a magiſtrate of one name, the like over another? Is there a charm in words, or any name of ſuch efficacy, that he who receives it ſhould immediately become maſter of thoſe that created him; whereas all others do remain for ever ſubject to them? Would the Venetian government change its nature, if they ſhould give the name of king to their prince? Are the Polanders leſs free ſince the title of king is conferred upon their dukes? Or are the Moſcovites leſs ſlaves, becauſe their chief magiſtrate has no other than that of duke? If we examine things but a little, it will appear, that magiſtrates have enjoyed large powers, who never had the name of kings; and none were ever more reſtrained by laws than thoſe of Sparta, Arragon, the Goths in Spain, Hungary, Bohemia, Sweden, Denmark, Poland, and others, who had that title. There is therefore no ſuch thing as a right univerſally belonging to a name; but every one enjoys that which the laws, by which he is, confer upon him. The law that gives the power, regulates it. And they, who give no more than what they pleaſe, cannot be obliged to ſuffer him to whom they give it, to take more than they thought fit to give, or to go unpuniſhed if he do. The agreements made are always confirmed by oath, and the treachery of violating them is conſequently aggravated by perjury. They are excellent philoſophers, and able divines, who think that this can create a right to thoſe who had none; or that the laws can be a protection to ſuch as overthrow them, and give opportunity of doing the miſchiefs they deſign! If not, then he that was a magiſtrate, by ſuch actions returns into the condition of a private man; and whatever is lawful againſt a thief, who ſubmits to no law, is lawful againſt him.

Men who delight in cavils may aſk, who ſhall be the judge of theſe occaſions? and whether I intend to give to the people the deciſion of their own cauſe? To which I anſwer, that when the conteſt is between the magiſtrate and the people, the party, to which the determination is referred, muſt be the judge of his own caſe; and the queſtion is only, whether the magiſtrate ſhould depend upon the judgment of the people, or the people on that of the magiſtrate, and which is moſt to be ſuſpected of injuſtice? that is, whether the people of Rome ſhould judge Tarquin, or Tarquin judge the people? He that knew all good men abhorred him for the murder of his wife, brother, father-in-law, and the beſt of the ſenate, would certainly ſtrike off the heads of the moſt eminent remaining poppies;

and having incurred the general hatred of the people by the wickedneſs of his government, he feared revenge; and endeavouring to deſtroy thoſe he feared, that is the city, he might eaſily have accompliſhed his work, if the judgment had been referred to him. If the people judge Tarquin, it is hard to imagine how they ſhould be brought to give an unjuſt ſentence: they loved their former kings, and hated him only for his villainies: they did not fancy, but know his cruelty. When the beſt were ſlain, no man that any way reſembled them could think himſelf ſecure. Brutus did not pretend to be a fool, till, by the murder of his brother, he found how dangerous a thing it was to be thought wiſe. If the people, as our author ſays, be always lewd, fooliſh, mad, wicked, and deſirous to put the power into the hands of ſuch as are moſt like to themſelves, he and his ſons were ſuch men as they ſought, and he was ſure to find favourable judges: if virtuous and good, no injuſtice was to be feared from them, and he could have no other reaſon to decline their judgment, than what was ſuggeſted by his own wickedneſs. Caligula, Nero, Domitian, and the like, had probably the ſame conſiderations. But no man of common ſenſe ever thought that the ſenate and people of Rome did not better deſerve to judge, whether ſuch monſters ſhould reign over the beſt part of mankind to their deſtruction, than they to determine whether their crimes ſhould be puniſhed or not. SECT. 24

If I mention ſome of theſe known caſes, every man's experience will ſuggeſt others of the like nature. And whoever condemns all ſeditions, tumults, and wars, raiſed againſt ſuch princes, muſt ſay, that none are wicked, or ſeek the ruin of their people, which is abſurd; for Caligula wiſhed the people had but one neck, that he might cut it off at a blow.* Nero ſet the city on fire †. And we have known ſuch as have been worſe than either of them. They muſt either be ſuffered to continue in the free exerciſe of their rage, that is, to do all the miſchief they deſign, or muſt be reſtrained by a legal, judicial, or extrajudicial way. They who diſallow the extrajudicial, do as little like the judicial. They will not hear of bringing a ſupreme magiſtrate before a tribunal, when it may be done. "They will," ſays our author, "depoſe their kings." Why ſhould they not be depoſed, if they become enemies to their people, and ſet up an intereſt in their own perſons inconſiſtent with public good, for the promoting of which they were erected? If they were created by the public conſent, for the public good, ſhall they not be removed when they prove to be of public damage? If they ſet up themſelves, may they not be thrown down? Shall it be lawful for them to uſurp a power over the liberty of others, and ſhall it not be lawful for an injured people to reſume their

* Infenſus turbae exclamavit, "utinam populus Romanus unam cervicem haberet!" Suet. in vitâ Calig. § 30

† Quaſi offenſus deformitate veterum aedificiorum, et anguſtiis flexuriſque vicorum, incendit urbem . . . . Hoc incendium è turri Maecenatianâ proſpectans, laetuſque "flammae," ut aiebat, "pulcritudine," ἁλωσιν Ilii in illo ſuo ſcenico habitu decantavit. Suet. in vitâ Neronis, § 38. Tacit. Ann. l. 15, § 38

CHAP. 11 own? If injuſtice exalt itſelf, muſt it be for ever eſtabliſhed? Shall great perſons be rendered ſacred by rapine, perjury, and murder? Shall the crimes, for which private men do juſtly ſuffer the moſt grievous puniſhments, exempt them from all, who commit them in the higheſt exceſs, with moſt power, and moſt to the prejudice of mankind? Shall the laws that ſolely aim at the prevention of crimes be made to patronize them, and become ſnares to the innocent, whom they ought to protect? Has every man given up into the common ſtore his right of avenging the injuries he may receive, that the public power, which ought to protect or avenge him, ſhould be turned to the deſtruction of himſelf, his poſterity, and the ſociety into which they enter, without any poſſibility of redreſs? Shall the ordinance of God be rendered of no effect; or the powers he has appointed to be ſet up, for the diſtribution of juſtice, be made ſubſervient to the luſts of one or a few men, and by impunity encourage them to commit all manner of crimes? Is the corruption of man's nature ſo little known, that ſuch as have common ſenſe ſhould expect juſtice from thoſe, who fear no puniſhment if they do injuſtice; or that the modeſty, integrity, and innocence, which is ſeldom found in one man, though ever ſo cautiouſly choſen, ſhould be conſtantly found in all thoſe who by any means attain to greatneſs, and continue for ever in their ſucceſſors; or that there can be any ſecurity under their government, if they have them not? Surely if this were the condition of men living under government, foreſts would be more ſafe than cities; and it were better for every man to ſtand in his own defence, than to enter into ſocieties. He that lives alone might encounter ſuch as ſhould aſſault him upon equal terms, and ſtand or fall according to the meaſure of his courage and ſtrength; but no valour can defend him, if the malice of his enemy be upheld by a public power. There muſt therefore be a right of proceeding judicially or extrajudicially againſt all perſons who tranſgreſs the laws; or elſe thoſe laws, and the ſocieties that ſhould ſubſiſt by them, cannot ſtand; and the ends for which governments are conſtituted, together with the governments themſelves, muſt be overthrown. Extrajudicial proceedings, by ſedition, tumult, or war, muſt take place, when the perſons concerned are of ſuch power, that they cannot be brought under the judicial. They who deny this deny all help againſt an uſurping tyrant, or the perfidiouſneſs of a lawfully created magiſtrate, who adds the crimes of ingratitude and treachery to uſurpation. Theſe of all men are the moſt dangerous enemies to ſupreme magiſtrates. For as no man deſires indemnity for ſuch crimes as are never committed, he that would exempt all from puniſhment, ſuppoſes they will be guilty of the worſt; and by concluding, that the people will depoſe them if they have the power, acknowledges, that they purſue an intereſt annexed to their perſons, contrary to that of their people, which they would not bear if they could deliver themſelves from it. This, ſhewing all thoſe governments to be tyrannical, lays ſuch a burden upon thoſe who adminiſter them, as muſt neceſſarily weigh them down to deſtruction.

If

If it be ſaid, that the word ſedition implies that which is evil, I anſwer, SECT. 24
that it ought not then to be applied to thoſe who ſeek nothing but that which is juſt; and though the ways of delivering an oppreſſed people from the violence of a wicked magiſtrate, who has armed a crew of lewd villains, and fatted them with the blood and confiſcations of ſuch as were moſt ready to oppoſe them, be extraordinary, the inward righteouſneſs of the act does fully juſtify the authors. "He that has virtue and power to "ſave a people, can never want a right of doing it." Valerius Aſiaticus had no hand in the death of Caligula; but when the furious guards began tumultuouſly to inquire who had killed him, he appeaſed them with wiſhing he had been the man *. No wiſe man ever aſked by what authority Thraſybulus, Harmodius, Ariſtogiton, Pelopidas, Epaminondas, Dion, Timoleon, Lucius Brutus, Publicola, Horatius, Valerius, Marcus Brutus, Caius Caſſius, and the like, delivered their countries from tyrants. Their actions carried in themſelves their own juſtification, and their virtues will never be forgotten, while the names of Greece and Rome are remembered in the world.

If this be not enough to declare the juſtice inherent in, and the glory that ought to accompany theſe works, the examples of Moſes, Aaron, Othniel, Ehud, Barak, Gideon, Samuel, Jephthah, David, Jehu, Jehoiada, the Maccabees, and other holy men raiſed up by God for the deliverance of his people from their oppreſſors, decide the queſtion. They are perpetually renowned for having led the people by extraordinary ways (which ſuch as our author expreſs under the names of ſedition, tumult, and war) to recover their liberties, and avenge the injuries received from foreign or domeſtic tyrants. The work of the apoſtles was not in their time to ſet up or pull down any civil ſtate; but they ſo behaved themſelves in relation to all the powers of the earth, that they gained the name of peſtilent, ſeditious fellows, diſturbers of the people; and left it as an inheritance to thoſe, who, in ſucceeding ages, by following their ſteps, ſhould deſerve to be called their ſucceſſors; whereby they were expoſed to the hatred of corrupt magiſtrates, and brought under the neceſſity of periſhing by them, or defending themſelves againſt them. And he who denies them that right does at once condemn the moſt glorious actions of the wiſeſt, beſt, and holieſt men that have been in the world; together with the laws of God and man, upon which they were founded.

Nevertheleſs, there is a ſort of ſedition, tumult, and war, proceeding from malice, which is always deteſtable, aiming only at the ſatisfaction of private luſt, without regard to the public good. This cannot happen in a popular government, unleſs it be among the rabble; or when the body of the people is ſo corrupted, that it cannot ſtand; but is moſt frequent in, and natural to abſolute monarchies. When Abimelech deſired to make himſelf king, he raiſed a tumult among the baſeſt of the people: "he hired light and vain perſons," ſome tranſlations call them lewd vaga-

* Εἰθε ἐγω αὐτὸν ἀπεκτονειν. Dion. Caſs. l. 59.

CHAP. II bonds, killed his brethren, but periſhed in his deſign, the corrupt party that favoured him not having ſtrength enough to ſubdue the other, who were more ſincere *. Spurius Moelius, Spurius Caſſius, and Manlius, attempted the like in Rome †: they acted maliciouſly; their pretences to procure the public good were falſe. It is probable, that ſome in the city were as bad as they, and knew that miſchief was intended; but the body of the people not being corrupted, they were ſuppreſſed. It appeared, ſays Livy, "nihil eſſe minus populare quàm regnum ‡." They who had favoured Manlius condemned him to death, when it was proved, that "egregias alioqui virtutes foedâ regni cupiditate maculâſſet §." But when the people is generally corrupted, ſuch deſigns ſeldom miſcarry, and the ſucceſs is always the erection of a tyranny. Nothing elſe can pleaſe vain and profligate perſons, and no tyranny was ever ſet up by ſuch as were better qualified. The ways of attaining it have always been by corrupting the manners of the people, bribing ſoldiers, entertaining mercenary ſtrangers, opening priſons, giving liberty to ſlaves, alluring indigent perſons with hopes of aboliſhing debts, coming to a new diviſion of lands, and the like. Seditions raiſed by ſuch men always tend to the ruin of popular governments; but when they happen under abſolute monarchies, the hurt intended is only to the perſon, who being removed, the promoters of them ſet up another; and he that is ſet up, ſubſiſting only by the ſtrength of thoſe who made him, is obliged to foment the vices that drew them to ſerve him; though another may perhaps make uſe of the ſame againſt him.

The conſequence of this is, that thoſe, who uphold popular governments, look upon vice and indigence as miſchiefs that naturally increaſe each other, and equally tend to the ruin of the ſtate. When men are by vice brought into want, they are ready for miſchief. There is no villainy that men of profligate lives, loſt reputation, and deſperate fortunes, will not undertake. Popular equality is an enemy to theſe; and they who would preſerve it muſt preſerve integrity of manners, ſobriety, and an honeſt contentedneſs with what the law allows. On the other ſide, the abſolute monarch, who will have no other law than his own will, deſires

* Judg. ch. 9, v. 4—55

† Moelius, ut eſt humanus animus inſatiabilis eo quod fortuna ſpondet, ad altiora et non conceſſa tendere; et quoniam conſulatus quoque eripiendus invitis patribus eſſet, de regno agitare, etc. Liv. l. 4, c. 13

Caſſius, quia in agrariâ largitione ambitioſus in ſocios, eoque civibus vilior erat, ut alio munere ſibi reconciliaret civium animos, jubere pro Siculo frumento pecuniam acceptam retribui populo. Id vero haud ſecus, quàm praeſentem mercedem regni aſpernata plebs: adeò propter ſuſpicionem inſitam regni, velut abundarent omnia, munera ejus in animis hominum reſpuebantur; quem ubi primum magiſtratu abiit, damnatum, necatumque conſtat. Liv. l. 2, c. 41

M. Manlius, undè Gallos depulerat, indè ipſe praecipitatus eſt; quia fortitèr defenſam libertatem nefariè opprimere conatus fuerat. Val. Max. l. 6, c. 3, § 1. Liv. l. 6, c. 11—20

‡ Liv. l. 6, c. 19

§ Illud notandum videtur, ut ſciant homines, quae et quanta decora foeda cupiditas regni, non ingrata ſolum, ſed inviſa etiam reddiderit. Ibid. c. 20

to

to increaſe the number of thoſe, who through lewdneſs and beggary may incline to depend upon him; though the ſame temper of mind, and condition of fortune, prepare them alſo for ſuch ſeditions as may bring him into danger: and the ſame corruption, which led them to ſet him up, may invite them to ſell him to another, that will give them better wages. SECT. 24

I do not by this conclude, that all monarchs are vitious men; but that whoever will ſet up an abſolute power muſt do it by theſe means; and that if ſuch a power be already eſtabliſhed, and ſhould fall into the hands of a perſon, who by his virtue, and the gentleneſs of his nature, ſhould endeavour to render the yoke ſo eaſy, that a better diſciplined people might be contented to bear it, yet this method could laſt no longer than his life, and probably would be a means to ſhorten it: that which was at firſt eſtabliſhed by evil arts always returning to the ſame. That which was vitious in the principle, can never be long upheld by virtue. We ſee, that the worſt of the Roman emperors were not in greater danger from ſuch good men as remained undeſtroyed, than the beſt from the corrupt party that would not be corrected, and ſought ſuch a maſter as would lay no reſtriction upon their vices. Thoſe few, who eſcaped the rage of theſe villains, only gave a little breathing-time to the afflicted world, which by their children or ſucceſſors was again plunged into that extremity of miſery, from which they intended to deliver it. An extraordinary virtue was required to keep a prince in a way contrary to the principles of his own government: which being rarely found, and never continuing long in a family or ſucceſſion of men, the endeavours of the beſt became ineffectual; and either they themſelves periſhed in them, or after their death all things returned into the old polluted channel.

Though the power of the Hebrew kings was not unlimited, yet it exceeded the rule ſet by God, and was ſufficient to increaſe the number of the worſt of men, and to give them opportunities of raiſing perpetual diſturbances. On the king's ſide there were flatterers and inſtruments of miſchief: on the other ſide there were indebted and diſcontented perſons. Notwithſtanding the juſtice of David's cauſe, the wiſdom, valour, and piety of his perſon, none would follow him, except a few of his own kindred, who knew what God had promiſed to him, and ſuch as were uneaſy in their worldly circumſtances. After the death of Saul there was a long and bloody war between Iſhboſheth and David. The former being killed, the ſlighteſt matters were ſufficient to put the whole nation into blood. Abſalom with a few fair words was able to raiſe all Iſrael againſt his father *. Sheba the ſon of Bichri with as much eaſe raiſed a more dangerous tumult †. David by wiſdom, valour, and the bleſſing of God, ſurmounted theſe difficulties, and prepared a peaceable reign for Solomon. But after his death the people broke out into a flame that was never quenched, till the nation was ſo diſperſed, that no man knew where to find his enemies. Solomon by his magnificence had reduced Iſrael to ſuch

* 2 Sam. ch. 15, v. 6 † Ch. 20, v. 1

poverty,

CHAP. II poverty, as inclined them to revolt upon the firſt offer of an opportunity by Jeroboam. From that time forward Iſrael was perpetually vexed with civil ſeditions and conſpiracies, or wars with their brethren of Judah. Nine kings with their families were deſtroyed by the firſt; and the latter brought ſuch ſlaughters upon the miſerable people, as were never ſuffered by any, who were not agitated with the like fury. And the courſe of theſe miſchiefs was never interrupted, till they had brought the nation into captivity, and the country to deſolation. Though God, according to his promiſe, did preſerve a light in the houſe of David, yet the tribe of Judah was not the more happy. Joaſh was ſlain by a private conſpiracy; and Amaziah, as is moſt probable, by public authority, for having fooliſhly brought a terrible ſlaughter upon Judah. Athaliah deſtroyed the king's race, and was killed herſelf by Jehoiada; who, not having learned from our author to regard the power only, and not the ways by which it was obtained, cauſed her to be dragged out of the temple, and put to a well-deſerved death. The whole ſtory is a tragedy. And if it be pretended, that this proceeded rather from the wrath of God againſt his people for their idolatry, than from ſuch cauſes as are applicable to other nations, I anſwer, that this idolatry was the production of the government they had ſet up, and moſt ſuitable to it; and chooſing rather to ſubject themſelves to the will of a man, than to the law of God, they deſervedly ſuffered the evils that naturally follow the worſt counſels. We know of none, who taking the like courſe have not ſuffered the like miſeries. Notwithſtanding the admirable virtue and ſucceſs of Alexander, his reign was full of conſpiracies, and his knowledge of them prompted him to deſtroy Philotes, Parmenio, Clitus, Calliſthenes, Hermolaus, and many more of his beſt friends *. If he eſcaped the ſword, he fell by poiſon. The murder of his wives, mother, and children, by the rage of his own ſoldiers, the fury of his captains employed in mutual ſlaughters, till they were conſumed, his paternal kingdom after many revolutions transferred to Caſſander his moſt mortal enemy, the utter extinction of his conquering army, and particularly the famous Argyraſpides, who, being grown faithleſs and ſeditious, after the death of Eumenes were ſent to periſh in unknown parts of the eaſt, abundantly teſtify the admirable ſtability, good order, peace, and quiet that is enjoyed under abſolute monarchy.

The next government of the like nature that appeared upon the ſtage of the world was that of Rome, introduced by wars that conſumed two thirds of the people, confirmed by proſcriptions, in which all that were eminent for nobility, riches, or virtue, periſhed. The peace they had under Auguſtus was like that which the devil allowed to the child in the Goſpel, whom he rent ſorely, and left as dead. The miſerable city was only caſt into a ſwoon; after long and violent vexations by ſeditions, tumults, and wars, it lay as dead; and finding no helper like to him who cured the child, it was delivered to new devils to be tormented, till it was utterly

* Q. Curt. l. 6, c. 11. l. 7, c. 2. l. 8, c. 1, 8.

deſtroyed.

deſtroyed. Tiberius was appointed as a fit inſtrument for ſuch a purpoſe. SECT. 24.
It was thought, that thoſe who ſhould feel the effects of his pride, cruelty, and luſt, would look upon the death of Auguſtus as a loſs. He performed the work for which he was choſen; his reign was an uninterrupted ſeries of murders, ſubornation, perjuries, and poiſonings, intermixed with the moſt deteſtable impurities, the revolts of provinces, and mutinies of armies. The matter was not mended by his ſucceſſors. Caligula was killed by his own guards; Claudius poiſoned by his wife. Spain, Gaul, Germany, Pannonia, Moeſia, Syria, and Egypt, revolted at once from Nero. The people and ſenate followed the example of the provinces: This I think was, in our author's ſenſe, ſedition with a witneſs. Nero being dead by the hand of a ſlave, or his own, to prevent that of the hangman, Galba entered the city with blood and ſlaughter. But when his own ſoldiers found he would not give the money for which they intended to ſell the empire, they killed him. And, to ſhew the ſtability of abſolute monarchy, it may be obſerved, that this was not done by the advice of the ſenate, or by a conſpiracy of great men: "ſuſcepere duo "manipulares imperium populi Romani transferendum, et transſtule-"runt*." Two raſcals gave the empire to Otho, and the whole ſenate was *like* to be butchered for not being ſo ready to follow their venerable authority, as they ought to have been, and hardly eſcaped the fury of their mad and drunken companions. As a farther teſtimony that theſe monarchies are not ſubject to ſedition and tumults, he had at once only two competitors againſt whom he was to defend the well acquired empire; his army was defeated at Bedriacum; he killed himſelf †; and his ſucceſſor Vitellius was ſoon after thrown into the Tiber ‡. The ſame method ſtill continued. Rome was filled with blood and aſhes; and to recite all the public miſchiefs would be to tranſcribe the hiſtory: for as Pyrrhus, being aſked who ſhould ſucceed him, anſwered, "he who has the ſharpeſt ſword §," that was the only law that governed in the following ages. Whoever could corrupt two or three legions thought he had a good title to the empire; and unleſs he happened to be killed by treachery, or another tumult of his own ſoldiers, he ſeldom receded from it without a battle, wherein he that was moſt ſucceſsful had no other ſecurity, than what the preſent temper of the ſoldiers afforded him. The miſerable provinces, having neither virtue nor force, were obliged ſlaviſhly to follow the fury or fortune of thoſe villains. In this ſtate did Rome dedicate to Conſtantine the triumphal arch, that had been prepared for Maxentius; and thoſe provinces which had ſet up Albinus and Niger ſubmitted to Septimius Severus. In the vaſt variety of accidents that in thoſe ages

* Tacit. Hiſt. l. 1, c. 25

† Uno ſe trajecit ictu, infra laevam papillam. Suet. in vitâ Othonis, § 11

‡ Confoſſo corpore in Tiberim dejicitur tyrannidis octavo menſe. Aur. Vict. de Caeſaribus, c. 8. Suet. in vitâ Vitel. § 17

§ Λεγεται ὡς ερωτηθεις, ὡ τινι καταλειψει την βασιλειαν, ειπειν, ος αν ὑμων την μαχαιραν ὀξυτεραν εχη. Plut. in vitâ Pyrrhi.

CHAP. II

disturbed the world, no emperor had a better title than what he purchased by money or violence; and enjoyed it no longer than those helps continued: which of all things were the most uncertain. By these means most of the princes perished by the sword, Italy was made desolate, and Rome was several times sackt and burnt. The mistress of the world being made a slave, the provinces which had been acquired by the blood of her antient virtuous citizens, became part of an usurper's patrimony; who, without any regard to the public good, distributed them to his children, according to their number, or his passion. These either destroyed one another, or fell under the sword of a third, who had the fortune of their father, the greatest part most commonly falling to the share of the worst. If at any time the contrary happened, the government of the best was but a lucid interval. Well-wishing men grew more extremely to abhor the darkness that followed when they were gone. The best of them could do no more than suspend mischief for a while, but could not correct the corrupt principle of their government. Some of them were destroyed as soon as they were thought to intend it: and others, who finished their days in peace, left the empire to such persons of their relations as were most unlike to them. Domitian came in as brother to Titus. Commodus and Heliogabalus were recommended by the memory of those virtues, that had been found in Antoninus and Aurelius. Honorius and Arcadius, who by their baseness brought utter ruin upon the western and eastern empires, were the sons of the brave Theodosius. They who could keep their hands free from blood, and their hearts from malice, covetousness, and pride, could not transmit their virtues to their successors, nor correct the perverseness that lay at the root and foundation of their government. The whole mass of blood was vitiated. The body was but one vast sore, which no hand but that of the Almighty could heal. And he, who from an abhorrence of iniquity had declared he would not hear the cries of his own people, when they had chosen the thing that was not good, would not shew mercy to strangers, who had done the same thing.

I have insisted upon the Hebrew, Macedonian, and Roman histories, because they are the most eminent, and best known to us. We are in the dark concerning the Babylonian, Assyrian, Chaldean, Bactrian, and Egyptian monarchs: we know little more of them than the Scripture occasionally relates concerning their barbarous cruelty, bestial pride, and extravagant folly. Others have been like to them; and I know not where to find a peaceable monarchy unless it be in Peru, where the Inca Garcilasso de la Vega says, a man and a woman, children of the sun and the moon, appearing amongst a barbarous people, living without any religion or law, established a government among them, which continued in much peace and justice for twelve generations *. But this seeming to be as fabulous as their

* Garcilasso, or Garcias-laso de la Vega was a native of Cusco. His father was a Spaniard, his mother a Peruvian, descended from the Incas. He wrote in Spanish the history of Peru and Florida. His Peruvian history was translated into English by Sir Paul Rycaut, and

their birth, we may paſs it over, and fix upon thoſe that are better known; SECT. 24
of which there is not one that has not ſuffered more dangerous and miſchievous ſeditions, than all the popular governments that have been in the world. And the condition of thoſe kingdoms which are not abſolute, and yet give a preference to birth, without conſideration of merit or virtue, is not much better.

This is proved by the reaſons of thoſe ſeditions and tumults, as well as from the fact itſelf.

The reaſons ariſe from the violence of the paſſions that incite men to them, and the intricacy of the queſtions concerning ſucceſſion.

Every man has paſſions; few know how to moderate, and no one can wholly extinguiſh them. As they are various in their nature, ſo they are governed by various objects; and men uſually follow that which is predominant in them, whether it proceed from anger or deſire, and whether it terminate in ambition, covetouſneſs, luſt, or any other more or leſs blameable appetite. Every manner of life furniſhes ſomething, that in ſome meaſure may foment theſe: but a crown comprehends all that can be grateful to the moſt violent and vicious. He who is covetous has vaſt revenues, beſides what he may get by fraud and rapine, to ſatisfy his appetite. If he be given to ſenſuality, the variety of pleaſures, and the facility of accompliſhing whatever he deſires, tends farther to inflame that paſſion. Such as are ambitious are incited by the greatneſs of their power to attempt great matters; and the moſt ſottiſh or lazy may diſcharge themſelves of cares, and hope that others will be eaſily hired to take the burden of buſineſs upon them, while they lie at eaſe. They who naturally incline to pride and cruelty are more violently tempted to uſurp dominion; and the wicked advices of flatterers, always concurring with their paſſions, incite them to exerciſe the power they have gotten with the utmoſt rigour, to ſatiate their own rage, and to ſecure themſelves againſt the effects of the public hatred, which they know they have deſerved. If there be, as our author ſays, no other rule than force and ſucceſs, and if he muſt be taken for the father of a people who is in poſſeſſion of a power over them, whoever has the one, may put the other to a trial. Nay, even thoſe who have regard to juſtice will ſeldom want reaſons to perſuade them, that it is on their ſide. Something may be amiſs in the ſtate; injuries may be done to themſelves and their friends. Such honours may be denied as they think they deſerve; or others of leſs merit, as they ſuppoſe, may be preferred before them. Men do ſo rarely make a right eſtimate of their own merits, that thoſe who mean well may be often deceived; and if nothing but ſucceſs be required to make a monarch, they may think it juſt to attempt whatever they can hope to accompliſh. This was the caſe

and publiſhed in 1688, under the title of The Royal Commentaries of Peru. The ſtory, which our author mentions, is related in thoſe Commentaries, b. 1, ch. 7. Purch. Pilg. part 4, b. 7, ch. 13

CHAP. II of Julius Caeſar: he thought all things lawful, when the conſulate, which he ſuppoſed he had deſerved, was denied *.

Theſe enterprizes ſeem to belong to men of great ſpirits; but there are none ſo baſe as not to be capable of undertaking, and, as things may ſtand, of bringing them to perfection. Hiſtory repreſents no man under a more contemptible character of ſottiſh lazineſs, cowardice, and drunkenneſs, than Vitellius; no one more impure and ſordid than Galba. Otho was advanced for being in his manners like to Nero. Veſpaſian was ſcorned for his avarice, till the power fell into ſuch hands as made the world believe, none could be unworthy of the empire: and in the following ages the worſt men by the worſt means moſt frequently obtained it.

Theſe wounds are not cured by ſaying, that the law of God and nature prevents this miſchief, by annexing the ſucceſſion of crowns to proximity of blood: for mankind had not been continually afflicted with them if there had been ſuch a law, or if they could have been prevented by it. And though there were ſuch a law, yet more queſtions would ariſe about that proximity, than any wiſe man would dare to determine. The law can be of no effect, unleſs there be a power to decide the conteſts ariſing upon it. But the fundamental maxim of the great monarchies is, that there can be no interregnum: the heir of the crown is in poſſeſſion, as ſoon as he who did enjoy it is dead. "Le mort," as the French ſay, "ſaiſit le vif †." There can be therefore no ſuch law, or it ſerves for nothing. If there be judges to interpret the law, no man is a king till judgment be given in his favour; and he is not king by his own title, but by the ſentence given by them. If there be none, the law is merely imaginary, and every man may, in his own caſe, make it what he pleaſes. He who has a crown in his view, and arms in his hand, wants nothing but ſucceſs to make him a king; and if he proſper, all men are obliged to obey him.

It is a folly to ſay the matter is clear, and needs no deciſion; for every man knows, that no law concerning private inheritances can be ſo exactly drawn, but many controverſies will ariſe upon it, that muſt be decided by a power to which both parties are ſubject. The diſpute concerning kingdoms are ſo much the more difficult, becauſe this law is no where to be found; and the more dangerous, becauſe the competitors are for the moſt part more powerful.

Again, this law muſt either be general to all mankind, or particular to each nation. If particular, a matter of ſuch importance requires good proof, when, where, how, and by whom it was given to every one. But the Scriptures teſtifying to the contrary, that God gave laws to the

* "Viribus utendum eſt, quas fecimus: arma tenenti
"Omnia dat, qui juſta negat." Luc. Pharſ. l. 1, v. 348

† On dit en juriſprudence, que "le mort ſaiſit le vif," ſon plus prochain heritier habile à lui ſucceder, pour dire, qu' un heritier ſe peut mettre en poſſeſſion des biens d'un defunct de ſon authorité privée, ſans implorer celle de la juſtice, au lieu qu' un legataire univerſel ou particulier s'y doit pourvoir pour avoir déliverance de ſon legs. Dict. Univ. par M. Furetiere

Jews

Jews only, and that no ſuch thing as hereditary monarchy, according to proximity of blood, was preſcribed by them, we may ſafely ſay, that God never gave any ſuch law to every particular, nor to any nation. If he did not give it to any one, he did not give it to all; for every one is comprehended in all. And if no one has it, it is impoſſible that all can have it; or that it ſhould be obligatory to all, when no man knows or can tell, when, where, and by what hand it was given, nor what is the ſenſe of it. All which is evident by the various laws and cuſtoms of nations in the diſpoſal of hereditary ſucceſſions. And no one of them, that we know, has to this day been able to ſhew, that the method followed by them, is more according to nature than that of others. SECT. 24

If our author pretend to be God's interpreter, and to give the ſolution of theſe doubts, I may aſk which of the five following ways are appointed by God; and then we may examine caſes reſulting from them.

1. In France, Turky, and other places, the ſucceſſion comes to the next male, in the ſtraight eldeſt line: according to which the ſon is preferred before the brother of him who laſt enjoyed the crown, as the preſent king of France * before his uncle the duke of Orleans, and the ſon of the eldeſt before the brothers of the eldeſt, as in the caſe of Richard the ſecond of England, who was advanced preferably to all the brothers of the Black Prince his father.

2. Others keep to the males of the reigning family, yet have more regard to the eldeſt man than to the eldeſt line. And repreſentation taking no place among them, the eldeſt man is thought to be neareſt to the firſt king; and a ſecond ſon of the perſon that laſt reigned, to be nearer to him than his grandchild by the eldeſt ſon: according to which rule, any one of the ſons of Edward the third, remaining after his death, ſhould have been preferred before Richard the ſecond, who was his grandchild.

3. In the two caſes before-mentioned, no manner of regard is had to females, who being thought naturally incapable of commanding men, or performing the functions of a magiſtrate, are, together with their deſcendents, utterly excluded from the ſupreme, as well as from the inferior magiſtracies; and in Turky, France, and other great kingdoms, have no pretence to any title. But in ſome places, and particularly in England, the advantages of proximity belong to them, as well as to males: by which means our crown has been tranſported to ſeveral families and nations.

4. As in ſome places they are utterly rejected, and in others received ſimply without any condition; ſo thoſe are not wanting, where that of not marrying out of the country, or without the conſent of the eſtates, is impoſed: of which Sweden is an example.

5. In ſome places proximity of blood is only regarded, whether the iſſue be legitimate or illegitimate; in others baſtards are wholly excluded.

* Lewis XIV

CHAP. II By this variety of judgments, made by ſeveral nations, upon this point, it may appear, that though it were agreed by all, that the next in blood ought to ſucceed, yet ſuch conteſts would ariſe upon the interpretation and application of the general rule, as muſt neceſſarily be a perpetual ſpring of irreconcilable and mortal quarrels.

If any man ſay, the rule obſerved in England is that which God gave to mankind, I leave him firſt to diſpute that point with the kings of France, and many others, who can have no right to the crowns they wear, if it be admitted; and, in the next place, to prove, that our anceſtors had a more immediate communication with God, and a more certain knowledge of his will than others, who, for any thing we know, may be of authority equal to them. But in the mean time we may rationally conclude, that if there be ſuch a rule, we have had no king in England, for the ſpace of almoſt a thouſand years, having not had one who did not come to the crown by a moſt manifeſt violation of it; as appears by the fore-cited examples of William the firſt and ſecond, Henry the firſt, Henry the ſecond and his children, John, Edward the third, Henry the fourth, Edward the fourth and his children, Henry the ſeventh, and all that claim under any of them. And if poſſeſſion or ſucceſs can give a right, it will I think follow, that Jack Straw, Wat Tyler, Perkin Warbeck, or any other raſcal, might have had it, if he had been as happy as bold in his enterprize. This is no leſs than to expoſe crowns to the firſt that can ſeize them, to deſtroy all law and rule, and to render right a ſlave to fortune. If this be ſo, a late earl of Pembroke, whoſe underſtanding was not thought great, judged rightly when he ſaid, his grandfather was a wiſe man though he could neither write nor read, inaſmuch as he reſolved to follow the crown, though it were upon a coal-ſtaff. But if this be ſufficient to make a wiſe man, it is pity the ſecret was no ſooner diſcovered; ſince many, who for want of it lived and died in all the infamy that juſtly accompanies knavery, cowardice, and folly, might have gained the reputation of the moſt excellent men in their ſeveral ages. The bloody factions, with which all nations ſubject to this ſort of monarchy have been perpetually vexed, might have been prevented by throwing up croſs or pile, or by battle between the competitors body to body; as was done by Corbis and Orſua, Eteocles and Polynices, Ironſide and Canutus: it being moſt unreaſonable, or rather impiouſly abſurd, for any to venture their lives and fortunes, when their conſciences are not concerned in the conteſt, and they are to gain nothing by the victory.

If reaſon teaches, that, till this expeditious way of ending controverſies be received, the ambition of men will be apt to embroil nations in their quarrels, and others judging variouſly of thoſe matters, which can be reduced to no certain rule, will think themſelves in conſcience obliged to follow the party that ſeems to them to be moſt juſt; experience manifeſts the ſame, and that ambition has produced more violent miſchiefs than all the other deſires and paſſions, that have ever poſſeſſed the hearts of men. That

this may appear, it will not be amiſs to divide theſe miſchiefs into ſuch as proceed from him who is in poſſeſſion of the power, through jealouſy of ſtate, as they call it, to prevent the enterprizes of thoſe who would diſpoſſeſs him, and ſuch as ariſe between competitors contending for it. SECT. 24

Tarquin's counſel concerning the poppies, and Periander's heads of corn*, are of the firſt ſort. The moſt eminent are always moſt feared, as the readieſt to undertake, and moſt able to accompliſh, great deſigns. This eminence proceeds from birth, riches, virtue, or reputation, and is ſometimes wrought up to the greateſt height by a conjunction of all theſe. But I know not where to find an example of ſuch a man, who could long ſubſiſt under abſolute monarchy. If he be of high birth, he muſt, like Brutus, conceal his virtue, and gain no reputation, or reſolve to periſh, if he do not prevent his own death by that of the tyrant. All other ways are ineffectual: the ſuſpicions, fears, and hatred, thereupon ariſing, are not to be removed; perſonal reſpects are forgotten; and ſuch ſervices, as cannot be ſufficiently valued, muſt be blotted out by the death of thoſe who did them. Various ways may be taken, and pretences uſed, according to the temper of times and nations; but the thing muſt be done; and whether it be coloured by a trick of law, or performed by a mute with a bow-ſtring, imports little. Henry the fourth was made king by the earl of Northumberland, and his brave ſon Hotſpur; Edward the fourth by the valiant earl of Warwick; Henry the ſeventh by Stanley: but neither of them could think himſelf ſafe, till his benefactor was dead. No continued fidelity, no teſtimonies of modeſty and humility, can prevent this. The modeſty of Germanicus in rejecting the honours that were offered to him, and his induſtry in quieting the mutinied legions, accelerated his ruin †. When it was evident he might be emperor if he pleaſed, he muſt be ſo, or die: there was no middle ſtation between the throne and the grave. It is probable, that Caligula, Nero, and other beaſts like to them, might hate virtue for the good which is in it. But I cannot think, that either they, their predeceſſors or ſucceſſors, would have put themſelves upon the deſperate deſign of extirpating it, if they had not found it to be inconſiſtent with their government: and that being once concluded, they ſpared none of their neareſt relations. Artaxerxes killed his ſon Darius. Herod murdered the beſt of his wives, and all his ſons, except the worſt. Tiberius deſtroyed Agrippa Poſthumus, and Germanicus with his wife and two ſons. How highly ſoever Conſtantine the Great be commended, he was polluted with the blood of his father-in-law, wife, and ſon. Philip the ſecond of Spain did in the like manner deliver himſelf from his fears of Don Carlos; and it is not doubted, but that Philip the fourth, for the ſame reaſons, diſpatched his brother Don Carlos, and his ſon Balthaſar. The like caſes were ſo common in England, that all the Plantagenets, and the noble families allied to them being extinguiſhed, our anceſtors were ſent to ſeek a king in one of the meaneſt in Wales.

* Ariſt. Polit. l. 3, c. 13

† Tacit. Ann. l. 1, § 35, 52, etc.

This

CHAP. II This method being known, thoſe who are unwilling to die ſo tamely endeavour to find out ways of defending themſelves; and there being no other than the death of the perſon who is in the throne, they uſually ſeek to compaſs it by ſecret conſpiracy, or open violence. The number of princes that have been deſtroyed, and countries diſturbed, by thoſe who through fear have been driven to extremities, is not much leſs than of thoſe, who have ſuffered the like from men following the impulſe of their own ambition.

The diſorders ariſing from conteſts between ſeveral competitors, before any one could be ſettled in the poſſeſſion of kingdoms, have been no leſs frequent and bloody than thoſe above-mentioned, and the miſeries ſuffered by them, together with the ruin brought upon the empires of Macedon and Rome, may be ſufficient to prove it: however, to make the matter more clear, I ſhall allege others. But becauſe it may be preſumption in me to think I know all the hiſtories of the world, or tedious to relate all thoſe I know, I ſhall content myſelf with ſome of the moſt eminent and remarkable. And if it appear, that they have all ſuffered the ſame miſchiefs, we may believe they proceed not from accidents, but from the power of a permanent cauſe, that always produces the ſame, or the like effects.

To begin with France. The ſucceſſion not being well ſettled in the time of Meroveus, who had diſpoſſeſſed the grandchildren of Pharamond, he was no ſooner dead than Gillon ſet up himſelf, and with much ſlaughter drove his ſon Childeric out of the kingdom; who, after a little time returning with like fury, is ſaid to have ſeen a viſion, firſt of lions and leopards, then of bears and wolves, and laſtly of dogs and cats, all tearing one another to pieces *. This has been always accounted by the French to be a repreſentation of the nature and fortune of the three races, that were to command them, and has been too much verified by experience. Clovis their firſt chriſtian and moſt renowned king, having by good means or evil exceedingly enlarged his territories, but chiefly by the murders of Alaric and Ragnachaire, with his children, and, perſuading Chloderic ſon of Sigebert, king of Cologne, to kill his father †, left his kingdom to be torn in pieces by the rage of his four ſons, each of them endeavouring to make himſelf maſter of the whole. And when, according to the uſual fate of ſuch conteſts, ſucceſs had crowned Clotaire, who was the worſt of them all, by the ſlaughter of his brothers and nephews, with all the flower of the French and Gauliſh nobility, the advantages of his fortune

* Fredegarii Scholaſtici Epitome, § 12. Inventaire general de l' Hiſt. de France, par M. De Serres, p. 18.— Few modern hiſtorians take any notice of this legendary anecdote.

† Sidney tells us, Clovis "ſuborned Sigiſmund of Metz to kill his father Sigebert." But this is certainly a miſtake. The alteration, which the editor of the preſent edition has taken the liberty to make in this paſſage, is ſupported by the following authorities: viz. Gregor. Turon. Hiſt. Francorum, l. 2, c. 40. Aimoini Monachi Hiſt. Franc. l. 1, c. 18. Hiſtoire de France, par le Sieur de Mezeray, en la vie de Clovis. Hiſt. de France, par M. Chalons, etc.

only

only reſulted to his own perſon. For after his death the miſerable nations SECT. 24.
ſuffered as much from the madneſs of his ſons, as they had done by himſelf and his brothers. They had learned from their predeceſſors not to be ſlow in doing miſchief; but were farther incited by the rage of two infamous ſtrumpets, Fredegonde and Brunehaud, which is a ſort of vermin, that I am inclined to think, has not uſually governed ſenates, or popular aſſemblies. Chilperic the firſt, who by the ſlaughter of many perſons of the royal blood, with infinite numbers of the nobility and people, came to be maſter of ſo much of the country, as procured him the name of king of France, killed his eldeſt ſon on ſuſpicion, that he was excited againſt him by Brunehaud; and his ſecond, leſt he ſhould revenge the death of his brother *. He married Fredegonde, and was ſoon after killed by her adulterer Landry. The kingdom continued in the ſame miſery through the rage of the ſurviving princes, and found no relief, though moſt of them fell by the ſword; and Brunehaud, who had been a principal cauſe of thoſe tragedies, was tied to the tails of four wild horſes, and ſuffered a death as foul as her life. Theſe were lions and leopards. They involved the kingdom in deſperate troubles. But, being men of valour and induſtry, they kept up in ſome meaſure the reputation and power of the nation; and he who attained to the crown defended it. They being fallen by the hands of each other, the poiſonous root put forth another plague more mortal than their fury. The vigour was ſpent, and the ſucceſſion becoming more ſettled, ten baſe and ſlothful kings, by the French called "les rois faineants," ſucceeded. Some may ſay, they who do nothing, do no hurt; but the rule is falſe in relation to kings. He that takes upon him the government of a people, can do no greater evil than by doing nothing; nor be guilty of a more unpardonable crime, than by negligence, cowardice, voluptuouſneſs, and ſloth, to deſert his charge. Virtue and manhood periſh under him; good diſcipline is forgotten; juſtice ſlighted; the laws perverted, or rendered uſeleſs; the people corrupted; the public treaſures exhauſted; and the power of the government always falling into the hands of flatterers, whores, favourites, bawds, and ſuch baſe wretches as render it contemptible, a way is laid open for all manner of diſorders. The greateſt cruelty that has been known in the world, if accompanied with wit and courage, never did ſo much hurt as this ſlothful beſtiality; or rather theſe ſlothful beaſts have ever been moſt cruel. The reigns of Septimius Severus, Mahomet the ſecond, or Selim the ſecond, were cruel and bloody. But their fury was turned againſt foreigners, and ſome of their near relations, or againſt ſuch as fell under the ſuſpicion of making attempts againſt them. The condition of the people was tolerable; thoſe who would be quiet might be ſafe; the laws kept their right courſe; the reputation of the empire was maintained, the limits defended, and the public peace preſerved. But when the ſword paſſed into the hands of lewd, ſlothful, fooliſh, and cowardly princes, it

* Meroveus and Clovis. Gregor. Turon. l. 5, c. 19, 40. De Serres, p. 29.

was

CHAP. II was of no power againſt foreign enemies, or the diſturbers of domeſtic peace, though always ſharp againſt the beſt of their own ſubjects. No man knew how to ſecure himſelf againſt them, unleſs by raiſing civil wars; which will always be frequent, when a crown defended by a weak hand is propoſed as a prize to any that dare invade it. This is a perpetual ſpring of diſorders; and no nation was ever quiet, when the moſt eminent men found leſs danger in the moſt violent attempts, than in ſubmitting patiently to the will of a prince, that ſuffers his power to be managed by vile perſons, who get credit by flattering him in his vices. But this is not all: ſuch princes naturally hate and fear thoſe who excel them in virtue and reputation, as much as they are inferior to them in fortune; and think their perſons cannot be ſecured, nor their authority enlarged, except by their deſtruction. It is ordinary for them, "inter ganea et "ſtupra illuſtribus viris perniciem meditari,*" and to make cruelty a cover to ignorance and cowardice. Beſides the miſchiefs brought upon the public by the loſs of eminent men, who are the pillars of every ſtate, ſuch reigns are always accompanied with tumults, and civil wars, the great men ſtriving with no leſs violence who ſhall get the weak prince into his power, when ſuch regard is had to ſucceſſion, that they think it not fit to diveſt him of the title, than when with leſs reſpect they contend for the ſovereignty itſelf. And, while this ſort of princes reigned, France was not leſs afflicted with the conteſts between Grimoald, Erchenbald, Ebroin, and others, for the mayoralty of the palace, than they had been before by the rage of thoſe princes who had conteſted for the crown. The iſſue alſo was the ſame. After many revolutions, Charles Martel gained the power of the kingdom, which he had ſo bravely defended againſt the Saracens; and, having tranſmitted it to his ſon Pepin, the general aſſembly of eſtates, with the approbation of mankind, conferred the title alſo upon him. This gave the nation eaſe for the preſent; but the deep-rooted evil could not be ſo cured; and the kingdom, that by the wiſdom, valour, and reputation of Pepin, had been preſerved from civil troubles during his life, fell as deeply as ever into them ſo ſoon as he was dead. His ſons, Charles and Carloman, divided the dominions; but in a little time each of them would have all. Carloman filled the kingdom with tumult; raiſed the Lombards, and marched with a great army againſt his brother, till his courſe was interrupted by death, cauſed, as is ſuppoſed, by ſuch helps as princes liberally afford to their aſpiring relations. Charles deprived his two ſons of their inheritance, put them in priſon, and we hear no more of them †. But all the advantages which, by an extraordi-

* Tacit. Ann. l. 6, § 4

† What became of Carloman's two ſons, after they fell into the hands of Charlemagne, is a ſecret which hiſtory has not diſcloſed. — Sidney adds: "his third brother Griffon was "not more quiet, nor more ſucceſsful; and there could be no peace in Gaſcony, Italy, "or Germany, till he was killed." — Griffon was the ſon of Charles Martel, and had been dead ſeveral years before Charlemagne came to the crown: this paſſage therefore, in the preſent edition, for obvious reaſons, is omitted.

nary

nary virtue and fortune, he had purchaſed for his country, ended with his life. He left his ſon Lewis the Gentle in poſſeſſion of the empire, and kingdom of France, and his grandſon Bernard king of Italy. But theſe two could not agree; and Bernard, falling into the hands of Lewis, was deprived of his eyes, and ſome time after killed. This was not enough to preſerve the peace. Lothaire, Lewis, and Pepin, all three ſons to Lewis, rebelled againſt him; called a council at Lyons, depoſed him, and divided the empire among themſelves. After five years he eſcaped from the monaſtery where he had been kept, renewed the war, and was again taken priſoner by Lothaire. When he was dead, the war broke out more fiercely than ever between his children. Lothaire the emperor aſſaulted Lewis king of Bavaria, and Charles king of Rhaetia, was defeated by them, and confined to a monaſtery *, where he died. New quarrels aroſe between the two brothers, upon the diviſion of the countries taken from him, and Lorrain only was left to his ſon. Lewis died ſoon after, and Charles, getting poſſeſſion of the empire and kingdom, ended an inglorious reign in an unproſperous attempt to deprive Hermingarde, daughter to his brother Lewis, of the kingdom of Arles, and other places left to her by her father. Lewis his ſon, called the Stutterer, reigned two years in much trouble; and his only legitimate ſon, Charles the Simple, came not to the crown till after the death of his two baſtard brothers, Lewis and Carloman, Charles le Gros, and Eudes duke of Angers. Charles le Gros was depoſed from the empire and kingdom, ſtripped of his goods, and left to periſh through poverty in an obſcure village. Charles the Simple, and the nations under him, thrived no better. Robert duke of Anjou raiſed war againſt him, and was crowned at Rheims; but was himſelf ſlain ſoon after in a bloody battle near Soiſſons. His ſon-in-law Hebert, earl of Vermandois, gathered up the remains of his ſcattered party, got Charles into his power, and called a general aſſembly of eſtates, who depoſed him, and gave the crown to Rodolph duke of Burgundy; though he was no otherwiſe related to the royal blood than by his mother, which in France is nothing at all. He being dead, Lewis ſon to the depoſed Charles was made king; but his reign was as inglorious to him, as miſerable to his ſubjects. This is the peace which the French enjoyed for the ſpace of five or ſix ages under their monarchy. And it is hard to determine whether they ſuffered moſt by the violence of thoſe who poſſeſſed, or the ambition of others who aſpired to the crown; and whether the fury of active, or the baſeneſs of ſlothful princes was moſt pernicious to them. But upon the whole matter, through the defects of thoſe of the latter ſort, they loſt all that they had gained by ſweat and blood under the conduct of the former. Henry and Otho of Saxony, by a virtue like that of Charlemagne, deprived them of the empire, and ſettled it in Germany, leaving SECT. 24

* He was not confined by his brothers, but voluntarily retired into a monaſtery; that, according to the ſuperſtition of thoſe ages, he might atone for his crimes. — Promiae monaſterium regno temporis ſe exuens ingreditur. Vide Hiſt. Franc. Script. Tom. 2. p. 402. Annales Fuldenſes, ad ann. 855, De Serres, Mezeray, Chalons, etc.

CHAP. II France only to Lewis ſurnamed Outremer, and his ſon Lothaire. Theſe ſeemed to be equally compoſed of treachery, cruelty, ambition, and baſeneſs. They were always mutinous, and always beaten. Their frantic paſſions put them always upon unjuſt deſigns; and they were ſuch plagues to their ſubjects and neighbours, that they became equally deteſted and deſpiſed. Theſe things extinguiſhed the veneration due to the memory of Pepin and Charles; and obliged the whole nation rather to ſeek relief from a ſtranger, than to be ruined by their worthleſs deſcendents. They had tried all ways that were in their power; depoſed four crowned kings within the ſpace of a hundred and fifty years; crowned five who had no other title than the people conferred upon them; and reſtored the deſcendents of thoſe they had rejected. But all was in vain: their vices were incorrigible, the miſchiefs produced by them intolerable. They never ceaſed from murdering one another in battle, or by treachery, and bringing the nation into civil wars upon their wicked or fooliſh quarrels, till the whole race was rejected, and the crown placed upon the head of Hugh Capet. Theſe miſchiefs raged not in the ſame extremity under him and his deſcendents; but the abatement proceeded from a cauſe no way advantageous to abſolute monarchy. The French were by their calamities taught more ſtrictly to limit the regal power; and by turning the dukedoms and earldoms into patrimonies, which had been offices, gave an authority to the chief of the nobility, by which that of kings was curbed. And though by theſe means the commonalty was expoſed to ſome preſſures, yet they were ſmall, in compariſon of what they had ſuffered in former times. When many great men had eſtates of their own, that did not depend upon the will of kings, they grew to love their country; and though they chearfully ſerved the crown in all caſes of public concernment, they were not eaſily engaged in the perſonal quarrels of thoſe who poſſeſſed it, or had a mind to gain it. To preſerve themſelves in this condition, they were obliged to uſe their vaſſals gently. And this continuing in ſome meaſure till within the laſt fifty years, the monarchy was leſs tumultuous, than when the king's will had been leſs reſtrained. Nevertheleſs, they had not much reaſon to boaſt: there was a root ſtill remaining, that from time to time produced poiſonous fruit. Civil wars were frequent among them, though not carried on with ſuch deſperate madneſs as formerly; and many of them upon the account of diſputes between competitors for the crown. All the wars with England, ſince Edward the ſecond married Iſabella, daughter, and, as he pretended, heir of Philip le Bel, were of this nature. The defeats of Creſſy, Poictiers, and Agincourt, with the ſlaughters and devaſtations ſuffered from Edward the third, the Black Prince, and Henry the fifth, were merely upon conteſts for the crown, and for want of an interpreter of the law of ſucceſſion, who might determine the queſtion between the heir male, and the heir general. The factions of Orleans and Burgundy, Orleans and Armagnac, proceeded from the ſame ſpring; and the murders, that ſeem to have been the immediate cauſes of thoſe quarrels, were only the effects of the hatred growing

growing from their competition. The more odious, though leſs bloody contesſts between Charles the ſeventh, and his ſon Lewis the eleventh, with the jealouſy of the latter againſt his ſon, Charles the eighth, aroſe from the ſame principle. Charles of Bourbon prepared to fill France with fire and blood upon the like quarrel; when his deſigns were overthrown by his death in the aſſault of Rome. If the dukes of Guiſe had been more fortunate, they had ſoon turned the cauſe of religion into a claim to the crown, and repaired the injury done, as they pretended, to Pepin's race, by deſtroying that of Capet. Henry the third, thinking to prevent this by the ſlaughter of Henry le Balafré *, and his brother the cardinal de Guiſe, brought ruin upon himſelf, and caſt the kingdom into a moſt horrid confuſion. Our own age furniſhes us with more than one attempt of the ſame kind, attended with the like ſucceſs. The duke of Orleans was ſeveral times in arms againſt Lewis the thirteenth his brother; the queen-mother drew the Spaniards to favour him; Montmorency periſhed in his quarrel; Fontrailles revived it by a treaty with Spain, which ſtruck at the king's head, as well as the cardinal's, and was ſuppreſſed by the death of Cinq Mars and de Thou. Thoſe who underſtand the affairs of that kingdom make no doubt, but that the count de Soiſſons would have ſet up for himſelf, and been followed by the beſt part of France, if he had not been killed in the purſuit of his victory at the battle of Sedan. Since that time the kingdom has ſuffered ſuch diſturbances as ſhew, that more was intended than the removal of Mazarin: and the marſhal de Turenne was often told, that the check he gave to the prince of Condé at Gien, after he had defeated Hoquincourt, had preſerved the crown upon the king's head. And to teſtify the ſtability, good order, and domeſtic peace, that accompanies abſolute monarchy, we have in our own days ſeen the houſe of Bourbon often divided within itſelf; the duke of Orleans, the count de Soiſſons, the princes of Condé and Conti, in war againſt the king; the dukes of Angouleſme, Vendôme, Longueville, the count de Moret, and other baſtards of the royal family, following their example; the houſes of Guiſe, d'Elbeuf, Bouillon, Nemours, Rochefoucault, and almoſt all the moſt eminent in France, with the parliaments of Paris, Bourdeaux, and ſome others, joining with them. I might allege many more examples, to ſhew, that this monarchy, as well as all others, has from the firſt eſtabliſhment been full of blood and ſlaughter, through the violence of thoſe who poſſeſſed the crown, and the ambition of ſuch as aſpired to it; and that the end of one civil war has been the beginning of another: but I preſume, upon the whole, theſe will be thought ſufficient to prove, that it never enjoyed any permanent domeſtic quiet. SECT. 24

The kingdoms of Spain have been no leſs diſturbed by the ſame means; but eſpecially that of Caſtile, where the kings had more power than in other places. To cite all the examples, were to tranſcribe their hiſtories; but whoever has leiſure to examine them will find, that after many

* Henry le Balafré, Duke of Guiſe, was ſtabbed by the order of Henry the third, in 1588

CHAP. II troubles, Alphonſo the tenth, notwithſtanding his glorious ſurname of Wiſe, was depoſed by means of his ambitious ſon; don Alphonſo, ſurnamed el Deſheredado, ſupplanted by his uncle don Sancho el Bravo*; Peter the Cruel caſt from the throne, and killed by his baſtard brother the count de Tranſtamara. From the time of the above-named Alphonſo to that of Ferdinand and Iſabella, containing about two hundred years, ſo few of them paſſed without civil wars, that I hardly remember two together that were free from them. And whoever pretends, that of late years that monarchy has been more quiet, muſt, if he be ingenuous, confeſs their peace is rather to be imputed to the dexterity of removing ſuch perſons as have been moſt likely to raiſe diſturbances (of which number were don John of Auſtria, don Carlos ſon to Philip the ſecond, another of the ſame name ſon to Philip the third, and don Balthazar, ſon to Philip the fourth) than to the rectitude of their conſtitutions.

He that is not convinced of theſe truths, by what has been ſaid, may come nearer home, and ſee what miſchiefs were brought upon Scotland by the conteſts between Baliol and Bruce, with their conſequences, till the crown came to the Stuart family; the quiet reigns, and happy deaths, of the five James's, together with the admirable ſtability and peace of the government under queen Mary, and the perfect union in which ſhe lived with her huſband, ſon, and people, as well as the happineſs of the nation whilſt it laſted †.

But the miſeries of England, upon the like occaſions, ſurpaſs all. William the Norman was no ſooner dead, but the nation was rent in pieces by his eldeſt ſon Robert, conteſting with his younger ſons William and Henry for the crown. They being all dead, and their ſons, the like happened between Stephen and Maud. Henry the ſecond was made king to terminate all diſputes; but it proved a fruitleſs expedient. Such as were more ſcandalous, and not leſs dangerous, did ſoon ariſe between him and his ſons; who, beſides the evils brought upon the nation, vexed him to death by their rebellion. The reigns of John and Henry the third were yet more tempeſtuous. Edward the ſecond's lewd, fooliſh, infamous, and deteſtable government, ended in his depoſition and death, to which he was brought by his wife and ſon. Edward the third employed his own and his ſubjects valour againſt the French and Scots. But while the foundations were out of order, the nation could never receive any advantage by their victories: all was calculated for the glory, and turned to the advantage of one man. He being dead, all that the Engliſh held in Scotland, and in France, was loſt through the baſeneſs of his ſucceſſor, with more blood than it had been gained; and the civil wars raiſed by his wickedneſs and madneſs ended as thoſe of Edward the ſecond had done. The peace of Henry the fourth's reign was interrupted by dangerous civil

* Don Ferdinand and don Sancho el Bravo were the ſons of Alphonſo, or Alonſo, el Sabio. Alphonſo el Deſheredado was the ſon of don Ferdinand.

† Buchan. Rerum Scot. Hiſt. Drummond's Hiſt. of Scotland, containing that of the five James's, from the year 1423 to 1542. Melvil's Memoirs, etc.

wars;

wars; and the victory obtained at Shrewſbury had not perhaps ſecured him in the throne, if his death had not prevented new troubles. Henry the fifth acquired ſuch reputation by his virtue and victories, that none dared to invade the crown, during his life; but immediately after his death, the ſtorms prepared againſt his family broke out with the utmoſt violence. His ſon's weakneſs encouraged Richard duke of York to ſet up a new title, which produced ſuch miſchiefs as hardly any people have ſuffered, unleſs upon the like occaſion. For beſides the ſlaughter of many thouſands of the people, and eſpecially of thoſe who had been accuſtomed to arms, the devaſtation of the beſt parts of the kingdom, and the loſs of all that our kings had inherited in France, or gained by the blood of their ſubjects, fourſcore princes of the blood royal, as Philip de Comines calls them *, died in battle, or under the hand of the hangman. Many of the moſt noble families were extinguiſhed; others loſt their moſt eminent men. Three kings, and two preſumptive heirs of the crown, were murdered, and the nation brought to that ſhameful exigence, to ſet up a young man to reign over them, who had no better cover for his ſordid extraction than a Welſh pedigree, that might ſhew how a tailor was deſcended from prince Arthur, Cadwallader †, or Brutus. But the wounds of the nation were not to be healed with ſuch a plaiſter. He could not rely upon a title made up of ſuch ſtuff, and patched with a marriage to a princeſs of a very queſtionable birth. His own meanneſs inclined him to hate the nobility; and thinking it to be as eaſy for them to take the crown from him, as to give it to him, he induſtriouſly applied himſelf to glean up the remainders of the houſe of York, from whence a competitor might ariſe, and by all means to cruſh thoſe who were moſt able to oppoſe him. This exceedingly weakened the nobility, who held the balance between him and the commons, and was a great ſtep towards the diſſolution of our antient government. But he was ſo far from ſettling the kingdom in peace, that ſuch raſcals as Perkin Warbeck and Simnel were able to diſturb it. The reign of Henry the eighth was turbulent and bloody; that of Mary furious, and ſuch as had brought us into ſubjection to the moſt powerful, proud, and cruel nation at that time in the world, if God had not wonderfully protected us. Nay, Edward the ſixth, and queen Elizabeth, notwithſtanding the natural excellency of their diſpoſitions, and their knowledge of the truth in matters of religion, were forced, by that which men call "jealouſy of ſtate," to foul their hands ſo often with illuſtrious blood, that if their reigns deſerve to be accounted among the moſt gentle of monarchies, they were more heavy than the government of any commonwealth: and yet their lives were never ſecure againſt ſuch as conſpired againſt them upon the account of title. SECT. 24

* Memoires de Ph. de Comines, l. 1, c. 7.

† Edmund Tudor earl of Richmond, the father of Henry the ſeventh, deduced his pedigree from Cadwallader.

Having

CHAP. II. Having in ſome meaſure ſhewn, what miſeries have been uſually, if not perpetually, brought upon nations ſubject to monarchies, by the violence of ſome princes, and the baſeneſs, folly, and cowardice of others, together with what they have ſuffered in conteſts for the ſeveral crowns, whilſt men divided into divers factions ſtrive with as much vehemency to advance the perſon they favour, as if they or their country were intereſted in the quarrel, and fight as fiercely for a maſter, as they might reaſonably do to have none, I am not able to determine which of the two evils is the moſt mortal. It is evident the vices of princes reſult to the damage of the people; but whether pride and cruelty, or ſtupidity and ſloth, be the worſt, I cannot tell. All monarchies are ſubject to be afflicted with civil wars; but whether the moſt frequent and bloody do ariſe from the quarrels of divers competitors for crowns, before any one gain the poſſeſſion of them, or afterwards, through the fears of him that would keep what he has gained, or the rage of thoſe who would wreſt it from him, is not ſo eaſily decided. But commonwealths are leſs troubled with thoſe diſtempers. Women, children, or ſuch as are notoriouſly fooliſh or mad, are never advanced to the ſupreme power. While the laws, and that diſcipline which nouriſhes virtue is in force, men of wiſdom and valour are never wanting; and every man deſires to give teſtimony of his virtue, when he knows it will be rewarded with honour and power. If unworthy perſons creep into magiſtracies, or are by miſtake any way preferred, their vices, for the moſt part, turn to their own hurt. The ſtate cannot eaſily receive any great damage by the incapacity of one, who is not to continue in office above a year, and is uſually encompaſſed with thoſe, who, having borne, or are aſpiring to the ſame, are by their virtue able to ſupply his defects, cannot hope for a reward from one unable to corrupt them, and are ſure of the favour of the ſenate and people to ſupport them in the defence of the public intereſt. As long as this good order continues, private quarrels are ſuppreſſed by the authority of the magiſtrate, or prove to be of little effect. Such as ariſe between the nobles and commons frequently produce good laws for the maintenance of liberty (as they did in Rome for above three hundred years after the expulſion of Tarquin) and almoſt ever terminate with little or no blood. Sometimes the errors of one or both parties are diſcovered by the diſcourſe of a wiſe and good man; and thoſe who have moſt violently oppoſed one another become the beſt friends, every one joining to remove the evil that cauſes the diviſion. When the ſenate and people of Rome ſeemed to be moſt furiouſly incenſed againſt each other, the creation of tribunes, communication of honours and marriages between the patrician and plebeian families, or the mitigation of uſury, compoſed all. And theſe were not only harmleſs things, but ſuch as gave opportunities of correcting the defects that had been in the firſt conſtitution of the government, without which they could never have attained to the greatneſs, glory, and happineſs, they afterwards enjoyed. Such as had ſeen that people meeting in tumult, running through the city, crying out againſt the king, conſuls, ſenate,

ſenate, or decemviri, might have thought they would have filled all with blood and ſlaughter; but no ſuch thing happened. They deſired no more than to take away the kingdom which Tarquin had wickedly uſurped; and never went about ſo much as to puniſh one miniſter of the miſchiefs he had done, or to take away his goods, till, upon pretence of treating, his embaſſadors by a new treachery had caſt the city into greater danger than ever. Though the decemviri had by the like villainies equally provoked the people, they were uſed with the like gentleneſs. Appius Claudius and Oppius having by voluntary death ſubſtracted themſelves from public puniſhment, their collegues were only baniſhed *, and the magiſtracies of the city reduced to the former order, without the effuſion of more blood. They who contended for their juſt rights were ſatisfied with the recovery of them. Whereas ſuch as follow the impulſe of an unruly ambition never think themſelves ſafe, till they have deſtroyed all that ſeem able to diſturb them, and ſatiated their rage with the blood of their adverſaries. This makes as well as ſhews the difference between the tumults of Rome, or the ſeceſſion of the common people to mount Aventine, and the battles of Lewes, Eveſham, St. Alban's, Towton, Hexham, Barnet, Tewkeſbury, and Boſworth. It is in vain to ſay theſe ought rather to be compared to thoſe of Pharſalia, Actium, or Philippi; for when the laws of a commonwealth are aboliſhed, the name alſo ceaſes. Whatever is done by force or fraud to ſet up the intereſts and luſts of one man, in oppoſition to the laws of his country, is purely and abſolutely monarchical. Whatever paſſed between Marius, Sylla, Cinna, Catiline, Caeſar, Pompey, Craſſus, Auguſtus, Antonius, and Lepidus, is to be imputed to the conteſts that ariſe between competitors for monarchy, as well as thoſe that in the next age happened between Galba, Otho, Vitellius, and Veſpaſian: or, which is worſe, whereas all men in commonwealths fight for themſelves, when there is occaſion, and, if they ſucceed, enjoy the fruits of their victory, ſo that even thoſe who remain of the vanquiſhed party partake of the liberty thereby eſtabliſhed, or the good laws thereupon made; ſuch as followed the enſigns of thoſe men, who ſought to ſet up themſelves, did, rather like beaſts than men, hazard and ſuffer many unſpeakable evils to purchaſe miſery to themſelves and their poſterity, and to make one their maſter, who, increaſing in pride, avarice and cruelty, was to be thrown down again with as much blood as he had been ſet up.

SECT. 24

Theſe things, if I miſtake not, being in the laſt degree evident, I may leave to our author all the advantages he can gain by his rhetorical deſcription of the tumults of Rome, "when blood was in the market-places "ſuckt up with ſpunges, and the jakes ſtuffed with carcaſes;" to which he may add the crimes of Sylla's life, and the miſeries of his death. But withal I deſire to know, what number of ſpunges were ſufficient to ſuck

* Spe inciſâ, priuſquam prodicta dies adeſſet, Appius ſibi mortem conſcivit . . . Oppius quoque ductus in vincula eſt, et ante judicii diem finem ibi vitae fecit. Bona Claudii Oppiique tribuni publicavere. Collegae eorum exilii cauſâ ſolum verterunt; bona publicata ſunt. Liv. l. 3, c. 58

up

CHAP. II up the blood of five hundred thouſand men ſlain in one day †, when the houſes of David and Jeroboam contended for the crown of Iſrael; what jakes were capacious enough to contain the carcaſes of thoſe that periſhed in the quarrels between the ſucceſſors of Alexander; the ſeveral competitors for the Roman empire; or thoſe which have happened in France, Spain, England, and other places upon the like occaſions? If Sylla for ſome time acted as an abſolute monarch, it is no wonder that he died like one, or that God puniſhed him as Herod, Philip the ſecond of Spain, and ſome others, becauſe the hand of his fellow citizens had unjuſtly ſpared him. If, when he was become deteſtable to God and man, he became alſo miſerable, his example ought to deter others from the crimes, that are avenged by a power which none can eſcape, and to encourage thoſe who defend, or endeavour to recover, their violated liberties, to act vigorouſly in a cauſe, that God does evidently patronize.

SECTION XXV

COURTS ARE MORE SUBJECT TO VENALITY AND CORRUPTION THAN POPULAR GOVERNMENTS.

Though court-flatterers impute many evils to popular governments they no way deſerve, I could not think any ſo impudent as to lay corruption and venality to their charge, till I found it in our author. They might in my opinion have taken thoſe faults upon themſelves, ſince they certainly abound moſt where bawds, whores, buffoons, players, ſlaves, and other baſe people, who are naturally mercenary, are moſt prevalent. And whoever would know whether this does more frequently befal commonwealths than monarchies, eſpecially if they are abſolute, need only to inquire, whether the Cornelii, Junii, Fabii, Valerii, Quintii, Curii, Fabricii, and others, who moſt prevailed in Rome after the expulſion of the kings, or Sejanus, Macro, Narciſſus, Pallas, Icetus, Tigellinus, Vinius, Laco, Agrippina, Meſſalina, Lollia, Poppaea, and the like, were moſt ſubject to thoſe baſe vices; whether it were more eaſy to corrupt one or two of thoſe villains and ſtrumpets, or the ſenates and people of Rome, Carthage, Athens, and Sparta; and whether that ſort of rabble had more power over the princes they ſerved, than ſuch as moſt reſembled them had, while the popular government continued. It is in vain to ſay thoſe princes were wicked and vile; for many others are ſo likewiſe: and when the power is in the hands of one man, there can be no aſſurance he

† This tranſaction is recorded 2 Chron. ch. 13, v. 17. But probably there is an error in the text. The number of the ſlain is incredible. Our author immediately adds — "or of "four hundred thouſand who fell in one battle, between Joaſh and Amaziah, on the "ſame occaſion."— The occaſion was not the ſame; and we are not informed, what number fell in the battle. Theſe words are therefore omitted in this edition.

will

will not be like them. Nay, when the power is ſo placed, ill men will always find opportunities of compaſſing their deſires. "Bonus, cautus, "optimus imperator venditur," ſaid Diocleſian *. And though he was no unwiſe man, yet that which principally induced him to renounce the empire, was the impoſſibility he found of defending himſelf againſt thoſe that were in credit with him, who daily betrayed and ſold him. They ſee with the eyes of other men, and cannot reſiſt the frauds that are perpetually put upon them. Antoninus Pius and Marcus Aurelius ſeem to have been the beſt and wiſeſt of all the Roman emperors; but the two Fauſtina's had ſuch an aſcendency over them, as was moſt ſhameful to their perſons, and miſchievous to the empire, and the beſt men in it. Such as theſe may gain too much upon the affections of one man in the beſt regulated government: but that could be of no great danger to the public, when many others, equal or not much inferior to him in authority, are ready to oppoſe whatever he ſhould endeavour to promote by their impulſe. But there is no remedy, when all depends upon the will of a ſingle perſon who is governed by them. There was more of acuteneſs and jeſt, than of truth, in that ſaying of Themiſtocles, "that his little boy had more "power than any man in Greece; for he governed his mother, ſhe him, "he Athens, and Athens Greece †." For he himſelf was found to have little power, when for private paſſions and concernments he departed from the intereſt of the public. And the like has been found in all places that have been governed in the like manner. SECT. 25

Again, corruption will always reign moſt, where thoſe who have the power do moſt favour it, where the rewards of ſuch crimes are greateſt, eaſieſt, and moſt valued, and where the puniſhment of them is leaſt feared.

1. We have already proved, that liberty cannot be preſerved, if the manners of the people are corrupted, nor abſolute monarchy introduced, if they are ſincere; which is ſufficient to ſhew, that thoſe who manage free governments ought always, to the utmoſt of their power, to oppoſe corruption, becauſe otherwiſe both they and their government muſt inevitably periſh; and that, on the other hand, the abſolute monarch muſt endeavour to introduce it, becauſe he cannot ſubſiſt without it. It is alſo ſo natural for all ſuch monarchs to place men in power, who pretend to love their perſons, and will depend upon their pleaſure, that poſſibly it would be hard to find one in the world, who has not made it the rule of his government: and this is not only the way to corruption, but the moſt dangerous of all. For though a good man may love a good monarch, he will obey him only when he commands that which is juſt; and no one

* Trebellius Pollio meminit, Diocletianum dicere ſolitum, quùm in privatâ eſſet vitâ, nihil eſſe difficilius, quàm bene imperare: nam quiſque pro voto de principe loquitur. Ad haec, principem cubiculo cluſum vera minimè noſcere, aures ſuis praebere, et horum verbis accendi, ac ſedari, magiſtratus creare: denique ſit qui imperat bonus, ſit cautus, ſit optimus, omninò venditur ab aulicis ac decipitur. Pomponii Laeti Rom. Hiſt. Compend. c. 17

† Εκεινος γαρ, επιτατ]οντος αντῳ πολλα τε υἱε δια της μητρος, ω γυναι, ειπεν, Αθηναιοι μεν αρχουσι των Ἑλληνων· εγω δε, Αθηναιων· εμε, δε συ· σε δε, ὁ υἱος. Plut. in vitâ Catonis

CHAP. II can engage himſelf blindly to do whatever he is commanded, without renouncing all virtue and religion; becauſe he knows not whether that which ſhall be commanded is conſiſtent with either, or directly contrary to the laws of God and man. But if ſuch a monarch be evil, and his actions ſuch as they are too often found to be, whoever bears an affection to him, and ſeconds his deſigns, declares himſelf an enemy to all that is good; and the advancement of ſuch men to power does not only introduce, foment, and increaſe corruption, but fortifies it in ſuch a manner, that without an entire renovation of that ſtate it cannot be removed. Ill men may poſſibly creep into any government; but when the worſt are placed neareſt to the throne, and raiſed to honours for being ſo, they will with that force endeavour to draw all men to a conformity of ſpirit with themſelves, that it can no otherwiſe be prevented, than by deſtroying them, and the principle in which they live.

2. Man naturally follows that which is good, or ſeems to him to be ſo. Hence it is, that in well-governed ſtates, where a value is put upon virtue, and no one honoured, unleſs for ſuch qualities as are beneficial to the public, men are from their tendereſt years brought up in a belief, that nothing in this world deſerves to be ſought after, but ſuch honours as are acquired by virtuous actions. By this means virtue itſelf becomes popular, as in Sparta, Rome, and other places, where riches (which, with the vanity that follows them, and the honours men give to them, are the root of all evil) were either totally baniſhed, or little regarded. When no other advantage attended the greateſt riches, than the opportunity of living more ſumptuouſly or deliciouſly, men of great ſpirits ſlighted them. When Ariſtippus told Diogenes, that if he would go to court, and flatter the tyrant, he need not ſeek his ſupper under a hedge, the philoſopher anſwered, that he who could content himſelf with ſuch a ſupper, need not go to court, or flatter the tyrant *. Epaminondas, Ariſtides, Phocion, and even the Lacedemonian kings, found no inconvenience in poverty, while their virtue was honoured, and the richeſt princes in the world feared their valour and power. It was not difficult for Curius †, Fabricius, Quintius Cincinnatus, or Aemilius Paulus, to content themſelves with the narroweſt fortune, when it was no obſtacle to them in the purſuit of thoſe honours, which their virtues deſerved. It was in vain to think of bribing a man who ſupped upon the coleworts of his own garden. He could not be gained by gold, who did not think it neceſſary. He that could riſe from the plough to the triumphal chariot, and contentedly return thither again, could not be corrupted; and he that left the ſenſe of his poverty to his executors, who found not wherewith to bury him, might leave Macedon and Greece to the pillage of his ſoldiers, without taking to himſelf any part of the booty. But when luxury was brought into faſhion,

* Cum olera ei lavanti Ariſtippus dixiſſet, "ſi Dionyſium adulare velles, iſta non eſſes, imo, inquit, ſi tu iſta eſſe velles, non adulares Dionyſium." Val. Max. l. 4, c. 3, § 4. Hor. l. 1, Ep. 17, v. 13. Diog. Laert. in vitâ Ariſtippi, l. 2, c. 10

† Vide Val. Max. l. 4, c. 3, § 5

and

and they came to be honoured who lived magnificently, though they had in themſelves no qualities to diſtinguiſh them from the baſeſt of ſlaves, the moſt virtuous men were expoſed to ſcorn if they were poor; and that poverty, which had been the mother and nurſe of their virtue, grew inſupportable. The poet well underſtood what effect this change had upon the world, who ſaid, SECT. 25

" Nullum crimen abeſt, facinuſque libidinis, ex quo
" Paupertas Romana perit *."

When riches grew to be neceſſary, the deſire of them, which is the ſpring of all miſchief, followed. They, who could not obtain honours by the nobleſt actions, were obliged to get wealth to purchaſe them from whores and villains, who expoſed them to ſale. And when they were once entered into this track, they ſoon learned the vices of thoſe from whom they had received their preferment, and to delight in the ways that had brought them to it. When they were come to this, nothing could ſtop them: all thought and remembrance of good was extinguiſhed. They, who had bought the commands of armies or provinces from Icetus or Narciſſus, ſought only how to draw money from them, to enable them to purchaſe higher dignities, or gain a more aſſured protection from thoſe patrons. This brought the government of the world under a moſt infamous traffic, and the treaſures ariſing from it were, for the moſt part, diſſipated by worſe vices than the rapine, violence, and fraud, with which they had been gotten. The authors of thoſe crimes had nothing left but their crimes, and the neceſſity of committing more, through the indigence into which they were plunged by the extravagance of their expences. Theſe things are inſeparable from the life of a courtier. For as ſervile natures are guided rather by ſenſe than reaſon, ſuch as addict themſelves to the ſervice of courts, find no other conſolation in their miſery, than what they receive from ſenſual pleaſures, or ſuch vanities as they put a value upon; and have no other care, than to get money for their ſupply by begging, ſtealing, bribing, and other infamous practices. Their offices are more or leſs eſteemed, according to the opportunities they afford for the exerciſe of theſe virtues; and no man ſeeks them for any other end than for gain, nor takes any other way, than that which conduces to it. The uſual means of attaining them are, by obſerving the prince's humour, flattering his vices, ſerving him in his pleaſures, fomenting his paſſions, and by advancing his worſt deſigns, to create an opinion in him, that they love his perſon and are entirely addicted to his will. When valour, induſtry, and wiſdom, advanced men to offices, it was no eaſy matter for a man to perſuade the ſenate he had ſuch qualities as were required, if he had them not. But when princes ſeek only ſuch as love them, and will do what they command, it is eaſy to impoſe upon them; and becauſe none that are good will obey them, when they command that which is not ſo, they are always encompaſſed by the worſt. Thoſe who

* Juv. Sat. 6, v. 293

CHAP. II follow them only for reward are moſt liberal in profeſſing affection to them, and by theſe means riſe to places of authority and power. The fountain being thus corrupted, nothing that is pure can come from it. Theſe mercenary wretches having the management of affairs, juſtice and honours are ſet at a price, and the moſt lucrative traffic in the world is thereby eſtabliſhed. Eutropius, when he was a ſlave, uſed to pick pockets and locks; but, being made a miniſter, he ſold cities, armies, and provinces *. And ſome have undertaken to give probable reaſons to believe, that Pallas, one of Claudius's manumiſed ſlaves, by theſe means brought together more wealth in ſix years, than all the Roman dictators and conſuls had done from the expulſion of the kings to their paſſage into Aſia. The reſt walked in the ſame way, uſed the ſame arts, and many of them ſucceeded in the ſame manner. Their riches conſiſted not of ſpoils taken from enemies, but were the baſe product of their own corruption. They valued nothing but money. Thoſe who would bribe them were ſure to be advanced to the higheſt offices, and, whatever they did, feared no puniſhment. Like effects will ever proceed from the like cauſes. When vanity, luxury, and prodigality are in faſhion, the deſire of riches muſt neceſſarily increaſe in proportion to them; and when the power is in the hands of baſe mercenary perſons, they will always (to uſe the courtiers phraſe) make as much profit of their places as they can. Not only matters of favour, but of juſtice too, will be expoſed to ſale; and no way will be open to honours or magiſtracies, but by paying largely for them. He that gets an office by theſe means, will not execute it gratis: he thinks he may ſell what he has bought; and would not have entered by corrupt ways, if he had not intended to deal corruptly. Nay, if a well-meaning man ſhould ſuffer himſelf to be ſo far carried away by the ſtream of a prevailing cuſtom, as to purchaſe honours of ſuch villains, he would be obliged to continue in the ſame courſe, that he might gain riches to procure the continuance of his benefactors protection, or to obtain the favour of ſuch as happen to ſucceed them. The corruption, thus beginning in the head, muſt neceſſarily diffuſe itſelf into all the members of the commonwealth. Or, if any one, (which is not to be expected) after having been guilty of one villainy, ſhould reſolve to commit no more, it could have no other effect than to bring him to ruin; and he being taken away, all things would return to their former channel.

Beſides this, whoever deſires to advance himſelf muſt uſe ſuch means as are ſuitable to the time in which he lives, and the humour of the perſons with whom he is to deal. It had been as abſurd for any man void of

* Quid nervos ſecuiſſe juvat? vis nulla cruentam
Caſtrat avaritiam: parvis exercita furtis,
Quae vaſtare penum, neglectaque ſueverat arcae
Clauſtra remoliri, nunc uberiore rapinâ
Peccat in orbe manus: quicquid ſe Tigris ab Aemo
Dividit, hoc certâ proponit merce locandum
Inſtitor imperii, caupo famoſus honorum. Claud. in Eutrop. l. 1, v. 191.

merit

merit to ſet himſelf up againſt Junius Brutus, Cincinnatus, Papirius Curſor, Camillus, Fabius Maximus, or Scipio; and, by bribing the ſenate and people of Rome, think to be choſen captain againſt the Tarquins, Tuſcans, Latins, Samnites, Gauls, or Carthaginians, as for the moſt virtuous men by the moſt certain proofs of their wiſdom, experience, integrity, and valour, to expect advancement from Caligula, Claudius, and Nero, or the lewd wretches that governed them. They hated and feared all thoſe that excelled in virtue; and, ſetting themſelves to deſtroy the beſt for being the beſt, they placed the ſtrength of the government in the hands of the worſt, which produced the effects before-mentioned. This ſeems to have been ſo well known, that no man pretended to be great at court, but thoſe who had caſt off all thoughts of honour and common honeſty. "Revertar, cum leno, meretrix, ſcurra, cinaedus ero," ſaid one who ſaw what manners prevailed there; and where-ever they do prevail, ſuch as will riſe muſt render themſelves conformable in all corruption and venality. And it may be obſerved, that a noble perſon now living among us, who is a great enemy to bribery, was turned out from a conſiderable office, as a ſcandal to the court: for, ſaid the principal miniſter, he will make no profit of his place, and by that means caſts a ſcandal upon thoſe that do. SECT. 25.

If any man ſay, this is not generally the fate of all courts, I confeſs it; and that, if the prince be juſt, virtuous, wiſe, of great ſpirit, and not pretending to be abſolute, he may chooſe ſuch men as are not mercenary, or take ſuch a courſe as may render it hard for them to deſerve bribes, or to preſerve themſelves from puniſhment, if they ſhould deflect from his intention. A prince of this age, ſpeaking familiarly with ſome great men about him, ſaid, he had heard much of vaſt gains made by thoſe who were near to princes; and aſked, if they made the like? One of them anſwered, that they were as willing as others to get ſomething, but that no man would give them a farthing; for, every one finding a free admittance to his majeſty, no man needed a ſolicitor. And it was no leſs known, that he did of himſelf grant thoſe things that were juſt, than that none of them had ſo much credit as to promote ſuch as were not ſo. I will not ſay ſuch a king is a phenix: perhaps more than one may be found in an age; but they are certainly rare; and, all that is good in their government proceeding from the excellency of their perſonal virtues, it muſt fail, when that virtue fails, which was the root of it. Experience ſhews, how little we can rely upon ſuch a help; for, where crowns are hereditary, children ſeldom prove like to their fathers; and ſuch as are elective have alſo their defects. Many ſeem to be modeſt and innocent in private fortunes, who prove corrupt and vicious, when they are raiſed to power. The violence, ſpite, and malice of Saul was never diſcovered, till the people had placed him on the throne. But where the government is abſolute, or the prince endeavours to make it ſo, this integrity can never be found: he will always ſeek ſuch as are content to depend upon his will; which being always unruly, good men will never comply; ill men,

CHAP. II men will be paid for it; and that opens a gap to all manner of corruption. Something like to this may befal regular monarchies, or popular governments. They who are placed in the principal offices of truſt may be treacherous; and when they are ſo, they will always by theſe means ſeek to gain partiſans and dependents upon themſelves. Their deſigns being corrupt, they muſt be carried on by corruption; but ſuch as would ſupport monarchy in its regularity, or popular governments, muſt oppoſe it, or be deſtroyed by it. And nothing can better manifeſt how far abſolute monarchies are more ſubject to this venality and corruption than the regular and popular governments, than that they are rooted in the principle of the one, which cannot ſubſiſt without them; and are ſo contrary to the others, that they muſt certainly periſh, unleſs they defend themſelves from them.

If any man be ſo far of another opinion, as to believe, that Brutus, Camillus, Scipio, Fabius, Hannibal, Pericles, Ariſtides, Ageſilaus, Epaminondas, or Pelopidas, were as eaſily corrupted as Sejanus, Tigellinus, Vinius, or Laco; that the ſenate and people of Rome, Carthage, Athens, Sparta or Thebes, were to be bought at as eaſy rates as one profligate villain, a ſlave, a eunuch, or a whore; or though it was not in former ages, yet it is ſo now; he may be pleaſed to conſider, by what means men now riſe to places of judicature, church preferment, or any offices of truſt, honour, or profit, under thoſe monarchies which we know, that either are or would be abſolute. Let him examine how all the offices of juſtice are now diſpoſed of in France; how Mazarin came to be advanced; what traffic he made of abbies and biſhopricks, and what treaſures he gained by theſe means; whether the like has not continued ſince his death, and as a laudable example been tranſmitted to us ſince his majeſty's happy reſtauration; whether bawds, whores, thieves, buffoons, paraſites, and ſuch vile wretches as are naturally mercenary, have not more power at Whitehall, Verſailles, the Vatican, and the Eſcurial, than in Venice, Amſterdam, and Switzerland; whether Hyde, Arlington, Danby, their graces of Cleveland and Portſmouth, Sunderland, Jenkins, or Chiffinch, could probably have attained ſuch power as they have had among us, if it had been diſpoſed of by the ſuffrages of the parliament and people; or laſtly, whether ſuch as know only how to work upon the perſonal vices of a man, have more influence upon one who happens to be born in a reigning family, or upon a ſenate conſiſting of men choſen for their virtues and quality, or the whole body of a nation.

But if he, who poſſeſſes or affects an abſolute power, be by his intereſt led to introduce that corruption, which the people, ſenate, and magiſtrates, who uphold popular governments, abhor, as that which threatens them with deſtruction; if the example, arts, and means uſed by him and his dependents, be of wonderful efficacy towards the introduction of it; if nothing but an admirable virtue, which can hardly be in one that enjoys or deſires ſuch a power, can divert him from that deſign; and if ſuch virtue never did, nor probably ever will continue long in any one family,

we

we cannot rationally believe there ever was a race of men inveſted with, SECT. 25
or poſſeſſing ſuch a power; or that there will ever be any who have not, and will not endeavour to introduce that corruption, which is ſo neceſſary to the defence of their perſons, and moſt important concernments, and certainly accompliſh their great deſign, unleſs they are oppoſed or removed.

SECTION XXVI

CIVIL TUMULTS AND WARS ARE NOT THE GREATEST EVILS THAT BEFAL NATIONS.

"But ſkin for ſkin," ſays our author, "and all that a man hath, will "he give for his life." And ſince it was neceſſary to grace his book with ſome Scripture phraſes, none could be fitter for that purpoſe than thoſe that were ſpoken by the devil. But they will be of little uſe to him. For though I ſhould ſo far recede from truth, as to avow thoſe words to be true, I might ſafely deny the concluſions he draws from them, "that "thoſe are the worſt governments, under which moſt men are ſlain; or "that more are ſlain in popular governments, than in abſolute monarchies." For, having proved that all the wars and tumults, that have happened in commonwealths, have never produced ſuch ſlaughters as were brought upon the empires of Macedon and Rome, or the kingdoms of Iſrael, Judah, France, Spain, Scotland, or England, by conteſts between ſeveral competitors for thoſe crowns; if tumult, war, and ſlaughter, be the point in queſtion, thoſe are the worſt of all governments, where they have been moſt frequent and cruel. But though theſe are terrible ſcourges, I deny that government to be ſimply the worſt, which has moſt of them. It is ill, that men ſhould kill one another in ſeditions, tumults, and wars; but it is worſe, to bring nations to ſuch miſery, weakneſs, and baſeneſs, as to have neither ſtrength nor courage to contend for any thing; to have left nothing worth defending, and to give the name of peace to deſolation. I take Greece to have been happy and glorious, when it was full of populous cities, flouriſhing in all the arts that deſerve praiſe among men; when they were courted and feared by the greateſt kings, and never aſſaulted by any but to his own loſs and confuſion; when Babylon and Suſa trembled at the motion of their arms; and their valour, exerciſed in thoſe wars and tumults, which our author looks upon as the greateſt evils, was raiſed to ſuch a power, that nothing upon earth was found able to reſiſt them. And I think it now miſerable, when peace reigns within their empty walls, and the poor remains of thoſe exhauſted nations, ſheltering themſelves under the ruins of the deſolated cities, have neither any thing that deſerves to be diſputed among them, nor ſpirit or force to repel the injuries they daily ſuffer from a proud and inſupportable maſter.

CHAP. II

The like may be ſaid of Italy. Whilſt it was inhabited by nations governing themſelves by their own will, they fell ſometimes into domeſtic ſeditions, and had frequent wars with their neighbours. When they were free, they loved their country, and were always ready to fight in its defence. Such as ſucceeded well, increaſed in vigour and power; and even thoſe which were the moſt unfortunate in one age found means to repair their greateſt loſſes, if their government continued. While they had a property in their goods, they would not ſuffer the country to be invaded, ſince they knew they could have none, if it were loſt. This gave occaſion to wars and tumults; but it ſharpened their courage, kept up a good diſcipline, and the nations that were moſt exerciſed by them, always increaſed in power and number; ſo that no country ſeems ever to have been of greater ſtrength than Italy was, when Hannibal invaded it: and after his defeat, the reſt of the world was not able to reſiſt their valour and power. They ſometimes killed one another; but their enemies never got any thing but burying-places within their territories. All things are now brought into a very different method by the bleſſed governments they are under. The fatherly care of the king of Spain, the pope, and other princes, has eſtabliſhed peace among them. We have not in many ages heard of any ſedition among the Latins, Sabines, Volſci, Equi, Samnites, or others. The thin, half-ſtarved inhabitants of walls ſupported by ivy fear neither popular tumults, nor foreign alarms; and their ſleep is only interrupted by hunger, the cries of their children, or the howling of wolves. Inſtead of many turbulent, contentious cities, they have a few ſcattered, ſilent cottages; and the fierceneſs of thoſe nations is ſo tempered, that every raſcally collector of taxes extorts, without fear, from every man, that which ſhould be the nouriſhment of his family. And if any of thoſe countries are free from theſe pernicious vermin, it is through the extremity of their poverty. Even in Rome a man may be circumvented by the fraud of a prieſt, or poiſoned by one who would have his eſtate, wife, whore, or child; but nothing is done that looks like tumult or violence. The governors do as little fear Gracchus as Hannibal; and inſtead of wearying their ſubjects in wars, they only ſeek, by perverted laws, corrupt judges, falſe witneſſes, and vexatious ſuits, to cheat them of their money and inheritance. This is the beſt part of their condition. Where theſe arts are uſed, there are men, and they have ſomething to loſe; but for the moſt part the lands lie waſte; and they, who were formerly troubled with the diſorders incident to populous cities, now enjoy the quiet and peaceable eſtate of a wilderneſs.

Again, there is a way of killing worſe than that of the ſword: for as Tertullian ſays upon a different occaſion, "vetare naſci eſt interficere;*" thoſe governments are in the higheſt degree guilty of blood, which by

* Quomodo ſalvum hominem volet, quem vetat naſci . . . . Non erit immanior duritia Pharaonis, naſcentium enecatrix: nam ille animas adimit, hic non dat. . . Sub utroque homo interficitur; ſub altero, jam editus; ſub altero, edendus. Tert. adv. Marc. l. 1, ſub finem.

taking

taking from men the means of living, bring ſome to periſh through want, drive others out of the country, and generally diſſuade men from marriage, by taking from them all ways of ſupporting their families. Notwithſtanding all the ſeditions of Florence, and other cities of Tuſcany, the horrid factions of Guelphs and Gibelines, Neri and Bianchi *, nobles and commons, they continued populous, ſtrong, and exceeding rich; but in the ſpace of leſs than a hundred and fifty years, the peaceable reign of the Medici is thought to have deſtroyed nine parts in ten of the people of that province. Among other things it is remarkable, that when Philip the ſecond of Spain gave Sienna to the duke of Florence, his embaſſador then at Rome ſent him word, that he had given away more than ſix hundred and fifty thouſand ſubjects; and it is not believed there are now twenty thouſand ſouls inhabiting that city and territory. Piſa, Piſtoia, Arezzo, Cortona, and other towns, that were then good and populous, are in the like proportion diminiſhed, and Florence more than any. When that city had been long troubled with ſeditions, tumults, and wars, for the moſt part unproſperous, they ſtill retained ſuch ſtrength, that when Charles the eighth of France, being admitted as a friend with his whole army, which ſoon after conquered the kingdom of Naples, thought to maſter them, the people, taking up arms, ſtruck ſuch a terror into him, that he was glad to depart upon ſuch conditions as they thought fit to impoſe †. Machiavel reports, that in the year 1298 Florence alone, with the Val d' Arno, a ſmall territory belonging to that city, could, in a few hours, by the ſound of a bell, bring together a hundred thouſand well armed men ‡. Whereas now that city, with all the others in that province, are brought to ſuch deſpicable weakneſs, emptineſs, poverty, and baſeneſs, that they can neither reſiſt the oppreſſions of their own prince, nor defend him or themſelves, if they were aſſaulted by a foreign enemy. The people are diſperſed or deſtroyed, and the beſt families ſent to ſeek habitations in Venice, Genoa, Rome, and Lucca. This is not the effect of war or peſtilence: they enjoy a perfect peace, and ſuffer no other plague than the government they are under. But he who has thus cured them of diſorders and tumults does, in my opinion, deſerve no greater praiſe than a phyſician, who ſhould boaſt there was not a ſick perſon in a houſe committed to his care, when he had poiſoned all that were in it. The Spaniards have eſtabliſhed the like peace in the kingdoms of Naples and Sicily, the Weſt-Indies, and other places. The Turks by the ſame means prevent tumults in their domi- SECT. 26

* Machiav. Iſtor. Fiorent. l. 2.

† Gallis non mediocrem injiciebat metum Florentini populi ingens multitudo; qui, quo tempore ſtatus reipublicae fuerat mutatus, argumenta audaciae majora quàm quiſquam crediditſet, oſtenderät. Is quoque rumor pervulgatus non parùm eos terrebat, nimirum, ad campani aeris, quod in turribus ſuſpendi ſolet, ingentem ſonitum, infinitam armatorum vim ex toto Florentinorum agro concurſum facturam. In hoc communi metu, ad inanes ſaepe rumores utraque pars magno tumultu repentè ad arma concurrebat. F. Guicciardini Hiſt. Sui Temporis, C. S. Curione interprete, l. 1, p. 110, et ſeq. Edit. Baſil. 1567

‡ Machiav. Iſtor. Fiorent. l. 2

CHAP. II nions. And they are of ſuch efficacy in all places, that Mario Chigi, brother to pope Alexander the ſeventh, by one ſordid cheat upon the ſale of corn, is ſaid within eight years to have deſtroyed above a third part of the people in the eccleſiaſtical ſtate. And that country, which was the ſtrength of the Romans in the time of the Carthaginian wars, ſuffered more by the covetouſneſs and fraud of that villain, than by all the defeats received from Hannibal.

It were an endleſs work to mention all the places, where this peaceable ſolitude has been introduced by abſolute monarchy. But popular and regular governments have always applied themſelves to increaſe the number, ſtrength, power, riches, and courage, of their people, by providing comfortable ways of ſubſiſtence for their own citizens, inviting ſtrangers, and inſpiring them all with ſuch a love to their country, that every man might look upon the public cauſe as his own, and be always ready to defend it. This may ſometimes give occaſion to tumults and wars, as the moſt vigorous bodies may fall into diſtempers. When every one is ſolicitous for the public, there may be difference of opinion; and ſome, by miſtaking the way, may bring prejudice when they intend profit: but unleſs a tyrant do ariſe, and deſtroy the government, which is the root of their felicity; or they ſhould be overwhelmed by the irreſiſtible power of a virtue or fortune greater than their own, they ſoon recover, and, for the moſt part, riſe up in greater glory and proſperity than before. This was ſeen in the commonwealths of Greece and Italy, which for this reaſon were juſtly called nurſeries of virtue, and their magiſtrates preſervers of men. Whereas our author's peace-making monarchs can deſerve no better title than that of enemies and deſtroyers of mankind.

I cannot think him in earneſt, when he exaggerates Sylla's cruelties, as a proof, that the miſchiefs ſuffered under free ſtates are more univerſal, than under kings and tyrants, for there never was a tyrant in the world, if he was not one; though through wearineſs, infirmity of body, fear, or perhaps the horror of his own wickedneſs, he at length reſigned his power: but the evil had taken root ſo deep, that it could not be removed. There was nothing of liberty remaining in Rome. The laws were overthrown by the violence of the ſword. The remaining conteſt was, who ſhould be lord. And there is no reaſon to believe, that if Pompey had gained the battle of Pharſalia, he would have made a more modeſt uſe of his victory than Caeſar did; or that Rome would have been more happy under him than under the other. His cauſe was more plauſible becauſe the ſenate followed him, and Caeſar was the invader; but he was no better in his perſon, and his deſigns ſeem to have been the ſame. He had been long before "ſuarum legum auctor ac ſubverſor*." He gave the beginning to the firſt triumvirate; and it were folly to think, that he,

* Cn. Pompeius tertium conſul corrigendis moribus dilectus, et gravior remediis quàm delicta erant, ſuarumque legum auctor idem ac ſubverſor, quae armis tuebatur, armis amiſit. Tacit. Ann. l. 3, § 28.

who

who had been inſolent when he was not come to the higheſt pitch of fortune, would have proved moderate if ſucceſs had put all into his hands. The proceedings of Marius, Cinna, Catiline, Octavius, and Antonius, were all of the ſame nature. No laws were obſerved; no public good intended; the ambition of private perſons reigned; and whatever was done by them, or for their intereſts, can no more be applied to popular, ariſtocratical, or mixed governments, than the furies of Caligula and Nero. SECT. 27

SECTION XXVII

THE MISCHIEFS AND CRUELTIES PROCEEDING FROM TYRANNY ARE GREATER THAN ANY, THAT CAN COME FROM POPULAR OR MIXED GOVERNMENTS.

It is now time to examine the reaſons of our author's general maxims. "The cruelty," ſays he, "of a tyrant extends ordinarily no farther than to "ſome particular men that offend him, and not to the whole kingdom. "It is truly ſaid by his late majeſty king James, a king can never be ſo "notoriouſly vicious, but he will generally favour juſtice, and maintain "ſome order: except in particular caſes, wherein his inordinate luſts "may carry him away. Even the cruel Domitian, Dionyſius the tyrant, "and many others, are commended by hiſtorians as great obſervers of "juſtice." It may be ſaid of popular governments, that, though a people through error do ſometimes hurt a private perſon, and that may poſſibly reſult to the public damage, becauſe the man that is offended or deſtroyed might have been uſeful to the ſociety, they never do it otherwiſe than by error. For, having the government in themſelves, whatever is prejudicial to it is ſo to them; and if they ruin it, they ruin themſelves; which no man ever did willingly and knowingly. In abſolute monarchies the matter is quite otherwiſe. A prince that ſets up an intereſt in himſelf becomes an enemy to the public. In following his own luſts he offends all, except a few of his corrupt creatures, by whoſe help he oppreſſes others with a yoke they are unwilling to bear, and thereby incurs the univerſal hatred. This hatred is always proportionable to the injuries received, which being extreme, that muſt be ſo too; and every people being powerful in compariſon to the prince that governs, he will always fear thoſe that hate him, and always hate thoſe he fears. When Luigi Farneſe, firſt duke of Parma, had by his tyranny incenſed the people of that ſmall city, their hatred was not leſs mortal to him than that of the whole empire had been to Nero; and as the one burned Rome, the other would have deſtroyed Parma, if he had not been prevented. The like has been, and will be every where, inaſmuch as every man endeavours to deſtroy thoſe he hates and fears; and the greatneſs of the danger often drives this fear to rage

CHAP. II and madneſs *. For this reaſon Caligula wiſhed but one neck to all the people; and Nero triumphed over the burning city, thinking by that ruin he had prevented his own danger. I know not who the good authors are that commend Domitian for his juſtice: Tacitus calls him "principem "virtutibus infenſum †;" and it is hard to find out how ſuch a man can be an obſerver of juſtice, unleſs it be juſt, that whoever dares to be virtuous under a vicious and baſe prince ſhould be deſtroyed. Another author of the ſame time, ſpeaking of him, does not ſay he was unjuſt, but gives us reaſon to think that he was ſo, unleſs it were juſt for him, who had a power over the beſt part of the world, to deſtroy it; and that he, who by his cruelty had brought it to the laſt gaſp, would have finiſhed the work, if his rage had not been extinguiſhed ‡.

Many princes, not having in themſelves power to deſtroy their people, have ſtirred up foreign nations againſt them, and placed the only hopes of their ſafety in the public calamity. And lawful kings, when they have fallen into the firſt degree of madneſs, ſo as to aſſume a power above that which was allowed by the law, have in fury proved equal to the worſt uſurpers. Cleonymus of Sparta was of this ſort. He became, ſays Plutarch, an enemy to the city, becauſe they would not allow him the abſolute power he affected §; and brought Pyrrhus, the fierceſt of their enemies, with a mighty and excellently well diſciplined army, to deſtroy them. Vortigern the Briton called in the Saxons to the ruin of his own people, who were incenſed againſt him for his lewdneſs, cruelty, and baſeneſs ¶. King John for the like reaſons offered the kingdom of England to the Moors, and to the pope. Peter the Cruel, and other kings of Caſtile, brought vaſt armies of Moors into Spain, to the ruin of their own people, who deteſted their vices, and would not part with their privileges. Many other examples of the like nature might be alleged: and I wiſh our own experience did not too well prove that ſuch deſigns are common. Let him that doubts this examine the cauſes of the wars with Scotland in the years 1639, 1640; the ſlaughters of the proteſtants in Ireland 1641; the whole courſe of alliances and treaties for the ſpace of fourſcore years; the friendſhip contracted with the French; frequent quarrels with the Dutch; together with other circumſtances that are already made too public. If he be not convinced by this, he may ſoon ſee a man in the throne, who had rather be a tributary to France than a lawful king of England, whilſt either parliament or people ſhall dare to

* Cuncta ferit, dum cuncta timet. Claud. in Eutrop. l. 1, v. 182

† Crebrò per eos dies apud Domitianum abſens accuſatus, abſens abſolutus eſt. Cauſa periculi non crimen ullum, aut querela laeſi cujuſquam, ſed infenſus virtutibus princeps, et gloria viri, ac peſſimum inimicorum genus, laudantes. Tacit. in vitâ Agric. § 41

‡ Cùm jam ſemianimum laceraret Flavius orbem
Ultimus, et calvo ſerviret Roma Neroni. Juv. Sat. 4, v. 37

§ Ὁ δὲ Κλεώνυμος ἦν μὲν γένους βασιλικοῦ, δοκῶν δὲ βίαιος εἶναι καὶ μοναρχικὸς, οὔτε εὐνοίαν, οὔτε πίστιν εἶχεν, ἀλλ' Ἄρεως ἐβασίλευσε· καὶ τοῦτο μὲν ἦν κοινὸν ἔγκλημα καὶ βρεσβυτέροις αὐτῷ πρὸς τοὺς πολίτας. Plut. in vitâ Pyrrhi.

¶ Mat. Weſt. Flor. Hiſt. ſub ann. 449. p. 81. Will. Malmeſb. de Geſtis Reg. Ang. l. 1, p. 8.

diſpute

diſpute his commands, inſiſt upon their own rights, or defend a religion SECT. 27
inconſiſtent with that which he has eſpouſed; and then the truth will be ſo evident as to require no proof.

Grotius was never accuſed of dealing hardly with kings, or laying too much weight upon imaginary caſes; nevertheleſs, among other reaſons, that, in his opinion, juſtify ſubjects in taking arms againſt their princes, he alleges this, "propter immanem ſaevitiam," and "quando rex in "populi exitium fertur*;" inaſmuch as it is "contrary to, and incon- "ſiſtent with the ends for which governments are inſtituted:" which were moſt impertinent, if no ſuch thing could be; for that which is not can have no effect. There are therefore princes who ſeek the deſtruction of their people, or none could be juſtly oppoſed on that account.

If king James was of another opinion, I could wiſh the courſe of his government had been ſuited to it. When he ſaid, that whilſt he had the power of making judges and biſhops, he would make that to be law and goſpel, which beſt pleaſed him, and filled thoſe places with ſuch as turned both according to his will and intereſts, I muſt think, that by overthrowing juſtice, which is the rule of civil and moral action, and perverting the goſpel, which is the light of the ſpiritual man, he left nothing unattempted that he durſt attempt, by which he might bring the moſt extenſive and univerſal evils upon our nation that any can ſuffer. This would ſtand good, though princes never erred, unleſs they were tranſported with ſome "inordinate luſts:" for it is hard to find one that does not live in the perpetual power of them. They are naturally ſubject to the impulſe of ſuch appetites as well as others, and whatever evil reigns in their nature is fomented by education. It is the handle by which their flatterers lead them: and he that diſcovers to what vice a prince is moſt inclined, is ſure to govern him by rendering himſelf ſubſervient. In this conſiſts the chief art of a courtier; and by theſe means it comes to paſs, that ſuch luſts, as in private men are curbed by fear, do not only rage as in a wild beaſt, but are perpetually inflamed by the malice of their own ſervants. Their hatred to the laws of God or men, that might reſtrain them, increaſes in proportion with their vices, or their fears of being puniſhed for them. When they are come to this, they can ſet no limits to their fury; and there is no extravagance into which they do not frequently fall. But many of them do not expect theſe violent motives: the perverſity of their own nature carries them to the extremities of evil. They hate virtue for its own ſake, and virtuous men for being moſt unlike to themſelves. Virtue is the dictate of reaſon, or the remains of divine light, by which men are made benevolent and beneficial to each other. Religion proceeds from the ſame ſpring, and tends to the ſame end; and the good of mankind ſo entirely depends upon theſe two, that no people ever enjoyed any

* Ait Barclaius amitti regnum, ſi rex verè hoſtili animo in totius populi exitium feratur; quod concedo; conſiſtere enim ſimul non poſſunt voluntas imperandi, et voluntas perdendi. Grot. de Jure Belli, l. 1, c. 4, § 11.

thing

CHAP. II thing worth deſiring that was not the product of them; and whatever any have ſuffered, that deſerves to be abhorred and feared, has proceeded either from the defect of theſe, or the wrath of God againſt them. If any prince therefore has been an enemy to virtue and religion, he muſt alſo have been an enemy to mankind, and eſpecially to the people under him. Whatever he does againſt thoſe that excel in virtue and religion, tends to the deſtruction of the people who ſubſiſt by them. I will not take upon me to define who they are, or to tell the number of thoſe that do this: but it is certain there have been ſuch; and I wiſh I could ſay they were few in number, or that they had lived only in paſt ages. Tacitus does not fix this upon one prince, but upon all that he writes of; and to give his readers a taſte of what he was to write, he ſays, "that "nobility and honours were dangerous, but that virtue brought moſt "certain deſtruction *;" and in another place, that, "after the ſlaughter "of many excellent men, Nero reſolved to cut down virtue itſelf, and "therefore killed Thraſea Paetus, and Barea Soranus †." And whoever examines the chriſtian or eccleſiaſtical hiſtories, will find thoſe princes to have been no leſs enemies to virtue and religion than their predeceſſors, and conſequently, enemies to the nations under them: unleſs religion and virtue be things prejudicial or indifferent to mankind.

But our author may ſay, theſe were particular caſes.—And ſo was the ſlaughter of the prophets and apoſtles, the crucifixion of Chriſt, and all the villainies that have ever been committed; yet they proceeded from a univerſal principle of hatred to all that is good, exerting itſelf, as far as it could, to the ruin of mankind; and nothing but the over-ruling power of God, who reſolved to preſerve to himſelf a people, could ſet bounds to their rage, which in other reſpects had as full ſucceſs, as our author, or the devil, could have wiſhed.

Dionyſius, his other example of juſtice, deſerves obſervation. More falſhood, lewdneſs, treachery, ingratitude, cruelty, baſeneſs, avarice, impudence, and hatred to all manner of good, was hardly ever known in a mortal creature. For this reaſon, Diogenes ſeeing him at Corinth, though in a poor and contemptible condition, ſaid, he rather deſerved to have continued in the miſery, fears, and villainies, of his tyranny, than to be ſuffered peaceably to converſe with honeſt men ‡. And if ſuch as theſe are to be called obſervers of juſtice, it muſt be concluded, that the laws of God, and of men, are either of no value, or contrary to it; and that the deſtruction of nations is a better work than their preſervation. No faith is to be obſerved; temples may be juſtly ſacked; the beſt men ſlain for daring to be better than their maſters; and the whole world, if it were in the power of one man, rightly torn in pieces and deſtroyed.

* Nobilitas, opes, omiſſi geſtique honores, pro crimine; et ob virtutes, certiſſimum exitium. Tacit. Hiſt. l. 1, § 3

† Trucidatis tot inſignibus viris, ad poſtremum Nero virtutem ipſam exſcindere concupivit, interfecto Bareâ Sorano, et Thraſeâ Pacto. Ann. l. 16, § 21

‡ Plut. de Gerend. Rep. Vol. 2, c. 54

His

His reaſons for this are as good as his doctrine. "It is, ſays he, the SECT. 27
"multitude of people, and abundance of their riches, which are the
"only ſtrength and glory of every prince. The bodies of his ſubjects
"do him ſervice in war, and their goods ſupply his public wants.
"Therefore, if not out of affection to his people, yet out of natural love
"unto himſelf, every tyrant deſires to preſerve the lives and goods of
"his ſubjects." I ſhould have thought that princes, though tyrants, being God's vicegerents, and fathers of their people, would have ſought their good, though no advantage had thereby redounded to themſelves: but it ſeems no ſuch thing is to be expected from them. They conſider nations, as graziers do their herds and flocks, according to the profit that can be made of them. And if this be ſo, a people has no more ſecurity under a prince, than a herd or flock under their maſter. Though he deſire to be a good huſband, yet they muſt be delivered up to the ſlaughter, when he finds a good market, or a better way of improving his land: but they are often fooliſh, riotous, prodigal, and wantonly deſtroy their ſtock, though to their own prejudice. We thought that all princes and magiſtrates had been ſet up, that under them we might live quietly and peaceably, in all godlineſs and honeſty. But our author teaches us, that they only ſeek what they can make of our bodies and goods, and that they do not live and reign for us, but for themſelves. If this be true, they look upon us not as children, but as beaſts; nor do us any good for our own ſakes, or becauſe it is their duty, but only that we may be uſeful to them, as oxen are put into plentiful paſtures, that they may be ſtrong for labour, or fit for ſlaughter. This is the divine model of government that he offers to the world. The juſt magiſtrate is the miniſter of God for our good. But this abſolute monarch has no other care of us, than as our riches and multitude may increaſe his own glory and ſtrength. We might eaſily judge what would be the iſſue of ſuch a principle, when the being of nations depending upon his will muſt alſo depend upon his opinion, whether the ſtrength, multitude, and riches, of a people, do conduce to the increaſe of glory and power, or not, though hiſtories were ſilent in the caſe; for theſe things ſpeak of themſelves. The judgment of a ſingle man is not to be relied upon: the beſt and wiſeſt do often err, the fooliſh and perverſe always. And our diſcourſe is not of what Moſes or Samuel would do, but what may come into the fancy of a furious or wicked man, who may uſurp the ſupreme power, or a child, a woman, or a fool, that may inherit it. Beſides, the propoſition upon which he builds his concluſion, proves often falſe. For as the riches, power, number, or courage, of our friends, is for our advantage, and that of our enemies threatens us with ruin, thoſe princes only can reaſonably believe the ſtrength of their ſubjects beneficial to them, who govern ſo as to be aſſured of their affection, and that their ſtrength will be employed for them. But thoſe who know they are, or deſerve to be hated, cannot but think it will be employed againſt them, and always ſeek to diminiſh that which creates their danger. This muſt certainly befal as many as are lewd,

CHAP. II lewd, fooliſh, negligent, imprudent, cowardly, wicked, vicious, or any way unworthy the places they obtain: for their reign is a perpetual exerciſe of the moſt extreme and ruinous injuſtice. Every man, who follows an honeſt intereſt, is prejudiced; every one who finds the power that was ordained for his good, to be turned to his hurt, will be angry, and hate him that does it. If the people be of uncorrupted manners, this hatred will be univerſal, becauſe every one of them deſires that which is juſt. If compoſed of good and evil, the firſt will always be averſe to the evil government, and the others endeavouring to uphold it, the ſafety of the prince muſt depend upon the prevalence of either party. If the beſt prove to be the ſtrongeſt, he muſt periſh. And knowing himſelf to be ſupported only by the worſt, he will always deſtroy as many of his enemies as he can; weaken thoſe that remain; enrich his creatures with their ſpoils and confiſcations; by fraud and rapine accumulate treaſures to increaſe the number of his party, and advance them into all places of power and truſt, that by their aſſiſtance he may cruſh his adverſaries; and every man is accounted his adverſary who has either eſtate, honour, virtue, or reputation. This naturally caſts all the power into the hands of thoſe who have no ſuch dangerous qualities, nor any thing to recommend them, but an abſolute reſignation of themſelves to do whatever they are commanded. Theſe men having neither will nor knowledge to do good, as ſoon as they come to be in power, juſtice is perverted, military diſcipline neglected, the public treaſures exhauſted, new projects invented to raiſe more; and the prince's wants daily increaſing, through their ignorance, negligence, or deceit, there is no end of their devices and tricks to gain ſupplies. To this end, ſwarms of ſpies, informers, and falſe witneſſes, are ſent out to circumvent the richeſt and moſt eminent men; the tribunals are filled with court-paraſites of profligate conſciences, fortunes, and reputation, that no man may eſcape who is brought before them. If crimes are wanting, the diligence of well-choſen officers and proſecutors, with the favour of the judges, ſupply all defects; the law is made a ſnare, virtue ſuppreſſed, vice fomented, and, in a ſhort time, honeſty and knavery, ſobriety and lewdneſs, virtue and vice, become badges of the ſeveral factions; and every man's converſation and manners ſhewing to what party he is addicted, the prince who makes himſelf head of the worſt muſt favour them to the overthrow of the beſt: which is ſo ſtraight a way to an univerſal ruin, that no ſtate can prevent it, unleſs that courſe be interrupted.

Theſe things conſidered, no general judgment can be made of a magiſtrate's counſels, from his name or duty. He that is juſt, and become grateful to the people by doing good, will find his own honour and ſecurity in increaſing their number, riches, virtue, and power. If on the other ſide, by doing evil, he has drawn upon himſelf the public hatred, he will always endeavour to take from them the power of doing him any hurt, by bringing them into the utmoſt weakneſs, poverty, and baſeneſs. And whoever would know whether any particular prince deſires to increaſe

increaſe or deſtroy the bodies and goods of his ſubjects, muſt examine whether his government be ſuch as renders him grateful or odious to them; and whether he purſues the public intereſt, or, for the advancement of his own authority, ſets up one in himſelf contrary to that of his people, which can never befal a popular government; and conſequently, no miſchief equal to it can be produced by any ſuch, unleſs ſomething can be imagined worſe than corruption and deſtruction. SECT. 28

SECTION XXVIII

MEN LIVING UNDER POPULAR OR MIXED GOVERNMENTS ARE MORE CAREFUL OF THE PUBLIC GOOD, THAN IN ABSOLUTE MONARCHIES.

Our author delighting in ſtrange things does in the next place, with an admirable ſagacity, diſcover two faults in popular governments, which were never found by any man before him; and theſe are no leſs than ignorance and negligence. Speaking of the care of princes to preſerve their ſubjects, he adds, "on the contrary, in a popular ſtate, every man "knows the public good doth not wholly depend on his care, but the "commonwealth may be well enough governed by others, though he "only tend his private buſineſs." And a little below, "nor are they "much to be blamed for their negligence, ſince it is an even wager their "ignorance is as great. The magiſtrates among the people, being for "the moſt part annual, do always lay down their office before they under-"ſtand it; ſo that a prince of a duller underſtanding muſt needs excel "them." This is bravely determined, and the world is beholden to Filmer for the diſcovery of the errors that have hitherto been epidemical. Moſt men had believed, that ſuch as live in free ſtates are uſually pleaſed with their condition, and deſire to maintain it; and that every man finding his own good comprehended in that of the public, as thoſe who ſail in the ſame ſhip, employs the talent he has in endeavouring to preſerve it, knowing that he muſt periſh if that miſcarry. This was an encouragement to induſtry; and the continual labours and dangers, to which the Romans and other free nations expoſed themſelves, have been taken for teſtimonies, that they thought themſelves concerned in the buſineſſes that paſſed among them, and that every one did not neglect them, through an opinion that they would be done well enough by others. It was alſo thought, that free cities, by frequent elections of magiſtrates, became nurſeries of great and able men, every man endeavouring to excel others, that he might be advanced to the honour he had no other title to, than what might ariſe from his merit or reputation; in which they ſucceeded ſo well, that one of them may be juſtly ſaid to have produced more eminent men, than all the abſolute monarchies that have been in the world. But theſe

CHAP. II were miſtakes. Perhaps Brutus, Valerius, and other Roman ſenators or magiſtrates, for the ſpace of three hundred years, might have taken ſome care of the commonwealth, if they had thought it wholly depended upon one of them. But believing it would be well enough governed by others, they neglected it. Camillus, Cincinnatus, Papirius, Fabius Rutilianus and Maximus, Scipio Africanus, Amilcar, Hannibal, Pericles, Themiſtocles, Alcibiades, Epaminondas, Philopoemen, and others, might have proved able men in affairs of war or government; but they were removed from their offices before they underſtood them, and muſt needs be excelled in both by princes, though of duller underſtanding. This may be enough to excuſe them for performing their duty ſo ſlackly and meanly. But it is ſtrange, that Tacitus, and others, ſhould ſo far overlook the reaſon, and ſo groſly miſtake the matter of fact, as not only to ſay, that great and excellent ſpirits failed when liberty was loſt, and all preferments given to thoſe who were moſt propenſe to ſlavery; but that there wanted men even to write the hiſtory, "inſcitiâ reipublicae ut "alienae *." They never applied themſelves to underſtand affairs depending upon the will of one man, in whom they were no otherwiſe concerned, than to avoid the effects of his rage; and that was chiefly to be done, by not falling under the ſuſpicion of being virtuous. This was the ſtudy then in requeſt; and the moſt cunning in this art were called "ſcientes temporum." No other wiſdom was eſteemed in that and the enſuing ages; and no more was required, ſince the paternal care, deep wiſdom, and profound judgment of the princes provided for all. And though they were of duller underſtandings, they muſt needs excel other magiſtrates, who having been created only for a year, left their offices before they could underſtand the duties of them. This was evidenced by that tenderneſs, and ſincerity of heart, as well as the great purity of manners, obſerved in Tiberius; the clemency, juſtice, ſolid judgment, and frugality of Caligula; the induſtry, courage, and ſobriety of Claudius; the good-nature, and prudent government of Nero; the temperance, vivacity, and diligence of Vitellius; the liberality of Galba and Veſpaſian; together with the encouragement given by Domitian, Commodus, Heliogabalus, and many others, to all manner of virtues, and favours conferred upon thoſe that excelled in them. Our author, giving ſuch infallible proof of his integrity and underſtanding, by teaching us theſe things that would never have come into our heads, ought to be credited, though that which he propoſes ſeems to be moſt abſurd. But if we believe ſuch as lived in thoſe times, or thoſe who in later ages have peruſed their writings, we cannot but think the princes before-mentioned, and the greateſt part of thoſe, who poſſeſſed the ſame places, not only to have been void of all virtue, and to have ſuffered none to grow up under them, but in baſeneſs, ſottiſhneſs, and malice, to have been equal to the worſt of all beaſts. Whilſt one prince †, polluted with luſt and blood, ſat in

* Tacit. Hiſt. l. 1, § 1

† Tiberius

his

his grotto at Capreae, ſurrounded with an infamous troop of aſtrologers; SECT. 28
and others were governed by whores, bardaches, manumiſed ſlaves, and other villains, the empire was ruined through their negligence, incapacity, and wickedneſs; and the city that had flouriſhed in all manner of virtue, as much or more than any that has been yet known in the world, produced no more; the diſcipline was diſſolved that nouriſhed it; no man could hope to advance a public good, or obviate an evil, by his diligence and valour; and he who acquired reputation by either, could expect no other reward than a cruel death. If Germanicus and Corbulo, who were born when liberty was expiring *, be brought for examples againſt the firſt part of my aſſertion, their ends will juſtify the latter; and no eminent Roman family is known to have brought forth a man that deſerved to be named in hiſtory ſince their time. This is as probable in reaſon, as true in fact. Men are valiant and induſtrious, when they fight for themſelves, and their country. They prove excellent in all the arts of war and peace, when they are bred up in virtuous exerciſes, and taught by their fathers and maſters to rejoice in the honours gained by them. They love their country, when the good of every particular man is comprehended in the public proſperity, and the ſucceſs of their atchievements is improved to the general advantage. They undertake hazards and labours for the government, when it is juſtly adminiſtered; when innocence is ſafe, and virtue honoured; when no man is diſtinguiſhed from the vulgar, but ſuch as have diſtinguiſhed themſelves by the bravery of their actions; when no honour is thought too great for thoſe who do it eminently, unleſs it be ſuch as cannot be communicated to others of equal merit. They do not ſpare their perſons, purſes, or friends, when the public powers are employed for the public benefit, and imprint the like affections in their children from their infancy. The diſcipline of obedience, in which the Romans were bred, taught them to command; and few were admitted to the magiſtracies of inferior rank, till they had given ſuch proof of their virtue as might deſerve the ſupreme. Cincinnatus, Camillus, Papirius, Mamercus, Fabius Maximus, were not made dictators, that they might learn the duties of the office; but becauſe they were judged to be of ſuch wiſdom, valour, integrity, and experience, that they might be ſafely truſted with the higheſt powers. And, while the law reigned, not one was advanced to that honour, who did not fully anſwer what was expected from him. By theſe means the city was ſo repleniſhed with men fit for the greateſt employments, that even in its infancy, when three hundred and ſix of the Fabii, "quorum neminem," ſays Livy, "ducem ſperneret "quibuſlibet temporibus ſenatus †," were killed in one day, the city did lament the loſs; but was not ſo weakened as to give any advantage to

* Tacitus ſpeaking of the beginning of the reign of Tiberius, ſays, Manebant etiam tum veſtigia morientis libertatis. Tacit. Ann. l. 1. § 74.

† Sex et trecenti milites, omnes patricii, omnes unius gentis, quorum neminem ducem ſperneret egregius quibuſlibet temporibus ſenatus, ibant unius familiae viribus, Veiento populo peſtem minitantes. Liv. l. 2, c. 49.

CHAP. II their enemies. And when every one of thoſe who had been eminent before the ſecond Punic war, Fabius Maximus only excepted, had periſhed in it, others aroſe in their places, who ſurpaſſed them in number, and were equal to them in virtue. The city was a perpetual ſpring of ſuch men, as long as liberty laſted; but that was no ſooner overthrown, than virtue was torn up by the roots; the people became baſe and ſordid, the ſmall remains of the nobility ſlothful and effeminate, and their Italian aſſociates becoming like to them, the empire, whilſt it ſtood, was only ſuſtained by the ſtrength of foreigners.

The Grecian virtue had the ſame fate, and expired with liberty. Inſtead of ſuch ſoldiers as in their time had no equals, and ſuch generals of armies and fleets, legiſlators and governors, as all ſucceeding ages have juſtly admired, they ſent out ſwarms of fidlers, jeſters, chariot-drivers, players, bawds, flatterers, miniſters of the moſt impure luſts, or idle, babling, hypocritical philoſophers, not much better than they. The emperors courts were always crouded with theſe vermin; and notwithſtanding the neceſſity our author imagines, that princes muſt needs underſtand matters of government better than magiſtrates annually choſen, they did for the moſt part prove ſo brutiſh as to give themſelves, and the world, to be governed by ſuch as theſe, and that without any great prejudice, ſince none could be found more ignorant, lewd, and baſe, than themſelves.

It is abſurd to impute this to the change of times; for time changes nothing; and nothing was changed in thoſe times, but the government, and that changed all things. This is not accidental, but according to the rules given to nature by God, impoſing upon all things a neceſſity of perpetually following their cauſes. Fruits are always of the ſame nature with the ſeeds and roots from which they come, and trees are known by the fruits they bear. As a man begets a man, and a beaſt a beaſt, that ſociety of men which conſtitutes a government upon the foundation of juſtice, virtue, and the common good, will always have men to promote thoſe ends; and that which intends the advancement of one man's deſires and vanity, will abound in thoſe that will foment them. All men follow that which ſeems advantageous to themſelves. Such as are bred under a good diſcipline, and ſee that all benefits, procured to their country by virtuous actions, redound to the honour and advantage of themſelves, their children, friends, and relations, contract from their infancy a love to the public, and look upon the common concernments as their own. When they have learned to be virtuous, and ſee that virtue is in eſteem, they ſeek no other preferments than ſuch as may be obtained that way; and no country ever wanted great numbers of excellent men, where this method was eſtabliſhed. On the other ſide, when it is evident, that the beſt are deſpiſed, hated, or marked out for deſtruction; that all things are calculated to the humour or advantage of one man, who is often the worſt, or governed by the worſt; that honours, riches, commands, and dignities, are diſpoſed by his will, and his favour gained only by a moſt obſequious reſpect, or a pretended affection to his perſon, together with a ſervile

obedience

obedience to his commands, all application to virtuous actions will ceaſe; and no man caring to render himſelf or his children worthy of great employments, ſuch as deſire to have them will, by little intrigues, corruption, ſervility, and flattery, endeavour to make way to them: by which means true merit in a ſhort time comes to be aboliſhed; as fell out in Rome as ſoon as the Caeſars began to reign. SECT. 28

He who does not believe this, may ſee whether the like did not happen in all the other commonwealths of Italy and Greece. Or if modern examples are thought to be of more value, let him examine, whether the noblemen of Venice, who are born and bred in families that never knew a maſter, who act for themſelves, and have a part in all the good or evil that befals the commonwealth, and know, that if it be deſtroyed, they muſt periſh, or at leaſt, that all changes are to their prejudice, do neglect the public intereſts, as thinking, that the whole not depending upon any one of them, things will be well enough governed, though they attend only to their private benefit. Let it be obſerved, whether they do better underſtand the common concernments, than the great men of France or Spain, who never come to the knowledge of any thing, unleſs they happen to be favoured by the king, or his miniſters, and know themſelves never to be more miſerable than when their maſter is moſt proſperous. For my own part, I cannot think it neceſſary to allege any other proof of this point, than that when Maximilian the emperor, Lewis the twelfth of France, the fierce pope Julius the ſecond, and Ferdinand the ſubtile and powerful king of Spain, had, by the league of Cambray, combined againſt the Venetians, gained the battle of Giera d'Adda, taken Alviano their general priſoner, deprived them of all their dominion on the Terra firma *, and prepared to aſſault the city, it was, under God, ſolely preſerved by the vigour and wiſdom of their nobility, who, though no way educated to war, unleſs by ſea, ſparing neither perſons nor purſes, did with admirable induſtry and courage firſt recover Padua, and then many other cities, ſo that at the end of that terrible war they came off without any diminution of their territories. Whereas Portugal having in our age revolted from the houſe of Auſtria, no one doubts, but that it had been immediately reduced, if the great men of Spain had not been pleaſed with ſuch a leſſening of their maſter's power, and reſolved not to repair it by the recovery of that kingdom, nor to deprive themſelves of an eaſy retreat, when they ſhould be oppreſſed by him, or his favourites. The like thought was more plainly expreſſed by the marſhal de Baſſompierre, who, ſeeing how hardly Rochelle was preſſed by Lewis the thirteenth, ſaid, "he thought "they ſhould be ſuch fools as to take it †." It was believed they would

* Omnes propemodum orbis Chriſtiani principes ſocietatem contraxerant adverſus Venetos, quos cum Ludovicus XII, memorabili apud Ripaltam pugnâ cecidiſſet, imperium eorum exuêre Bergamum, Brixia, Cremona, Verona, Vicentia, Patavium, &c. Leand. Alberti Deſcript. Italiae. Paulo Paruta Iſtor. Veneziana. Guicciard. l. 8.——The battle of Giera d'Adda, or, as it is here called, Ripalta, was fought A. D. 1509

† Je croy qu' enfin nous ſerons aſſez fous pour prendre la Rochelle. ***

never

CHAP. II never have been ſuch fools; and the treachery only of our countrymen did enable the cardinal Richelieu to do it, as, for his own glory, and the advancement of the popiſh cauſe, he really intended. And nothing is, to this day, more common in the mouths of their wiſeſt and beſt men, though papiſts, than the acknowledgment of their own folly in ſuffering that place to fall, the king having by that means gotten power to proceed againſt them at his pleaſure. The brave monſieur de Turenne is ſaid to have carried this to a greater height in his laſt diſcourſe to the preſent king of France. "You think, ſaid he, you have armies, but you have none. "The one half of the officers are the bawdy-houſe companions of mon- "ſieur de ***, or the creatures of his whore, madam de ***: the other "half may be men of experience, and fit for their employments; but "they are ſuch as would be pleaſed with nothing more than to ſee you "loſe two or three battles, that coming to ſtand in need of them, you "might cauſe them to be better uſed by your miniſters, than of late they "have been." It may eaſily be imagined how men with ſuch ſentiments do ſerve their maſter. And nothing is more evident, than that the French in this age have had ſo great advantages, that they might have brought Europe, and perhaps Aſia, under their power, if the intereſt of the nation had been united to that of the government, and the ſtrength, vigour, and bravery of the nobility employed that way. But ſince it has pleaſed God to ſuffer us to fall into a condition of being little able to help ourſelves, and they are in ſo good terms with the Turk as not to attack him, it is our happineſs that they do not know their own ſtrength, or cannot, without ruin to themſelves, turn it to our prejudice.

I could give yet more pregnant teſtimonies of the difference between men fighting for their own intereſts, in the offices to which they had been advanced by the votes of numerous aſſemblies, and ſuch as ſerve for pay, and get preferments by corruption or favour, if I were not unwilling to ſtir the ſpleen of ſome men by obliging them to reflect upon what has paſſed in our own age and country; to compare the juſtice of our tribunals, within the time of our memory, and the integrity of thoſe, who for a while managed the public treaſure *; the diſcipline, valour, and ſtrength of our armies and fleets; the increaſe of our riches and trade; the ſucceſs of our wars in Scotland, Ireland, and at ſea; the glory and reputation not long ſince gained, with that condition into which we are of late fallen. But I think I ſhall offend no wiſe or good man, if I ſay, that as neither the Romans, nor Grecians, in the time of their liberty, ever performed any actions more glorious, than freeing the country from a civil war that had raged in every part, the conqueſt of two ſuch kingdoms as Scotland and Ireland, and cruſhing the formidable power of the Hollanders by ſea; nor ever produced more examples of valour, induſtry, integrity, and in all reſpects complete, diſintereſted, unmoveable, and incorruptible virtue, than were at that time ſeen in our nation; ſo neither of them, upon the change of their affairs, did exceed us in weakneſs,

* The parliament of 1641

cowardice,

cowardice, baſeneſs, venality, lewdneſs, and all manner of corruption. SECT. 28
We have reaſon therefore not only to believe, that all princes do not neceſſarily underſtand the affairs of their people, or provide better for them than thoſe who are otherwiſe choſen; but that, as there is nothing of greatneſs, power, riches, ſtrength, and happineſs, which we might not reaſonably have hoped for, if we had rightly improved the advantages we had, ſo there is nothing of ſhame and miſery which we may not juſtly fear, ſince we have neglected them.

If any man think that this evil of advancing officers for perſonal reſpects, favour, or corruption, is not of great extent, I deſire him to conſider, that the officers of ſtate, courts of juſtice, church, armies, fleets, and corporations, are of ſuch number and power, as wholly to corrupt a nation, when they themſelves are corrupted; and will ever be corrupt, when they attain to their offices by corruption. The good management of all affairs, civil, military, and eccleſiaſtical, neceſſarily depends upon good order and diſcipline; and it is not in the power of common men to reform abuſes patronized by thoſe in authority, nor to prevent the miſchiefs thereupon enſuing; and, not having power to direct public actions to the public good, they muſt conſequently want the induſtry and affection that is required to bring them to a good iſſue. The Romans were eaſily beaten under the decemviri, though immediately before the erection, and after the extinction of that power, none of their neighbours were able to reſiſt them. The Goths, who with much glory had reigned in Spain for about three hundred years, had neither ſtrength nor courage under their lewd and odious king Roderic, and were in one day ſubdued with little loſs of blood by the Saracens *, and could not in leſs than eight hundred years free their country from them. That brave nation, having of late fallen under as baſe a conduct, has now as little heart or power to defend itſelf. Court paraſites have rendered valour ridiculous; and they who have ever ſhewed themſelves as much inclined to arms as any people of the world, do now abhor them, and are ſent to the wars by force, laid in carts, bound like calves brought to the ſhambles, and left to ſtarve in Flanders, as ſoon as they arrive. It may eaſily be judged what ſervice can be expected from ſuch men, though they ſhould happen to be well commanded: but the great officers, by the corruption of the court, think only of enriching themſelves; and, increaſing the miſery of the ſoldiers by their frauds, both become equally uſeleſs to the ſtate.

Notwithſtanding the ſeeming proſperity of France, matters there are not much better managed. The warlike temper of that people is ſo worn out by the frauds and cruelties of corrupt officers, that few men liſt themſelves willingly to be ſoldiers; and, when they are engaged or forced, they are ſo little able to endure the miſeries to which they are expoſed, that they daily run away from their colours, though they know not whither to go, and expect no mercy, if they are taken. The king has in vain attempted to correct this humour by the ſeverity of martial law. But mens minds

* A. D. 714

will

CHAP. II will not be forced; and though his troops are perfectly well armed, clothed, and exerciſed, they have given many teſtimonies of little worth. When the prince of Condé had by his own valour, and the ſtrength of the king's guards, broken the firſt line of the prince of Orange's army at the battle of Seneff, and put the reſt into diſorder, he could not make the ſecond and third line of his own army advance, and reinforce the firſt; by which means, he loſt all the fair hopes he had conceived of an entire victory. Not long after, the marſhal de Crequi was abandoned by his whole army near Triers, which ran away, hardly ſtriking a ſtroke, and left him with ſixteen horſe to ſhift for himſelf. When monſieur de Turenne, by the excellency of his conduct and valour, had gained ſuch a reputation amongſt the ſoldiers, that they thought themſelves ſecure under him, he did not ſuffer ſuch diſgraces. But he being killed, they returned to the uſual temper of forced and ill-uſed ſoldiers: half the army was loſt in a retreat, little differing from a flight; and the reſt, as they themſelves confeſs, ſaved by the bravery of two Engliſh regiments. The prince of Condé was ſoon after ſent to command; but he could not, with all his courage, ſkill, and reputation, raiſe their fallen ſpirits, nor preſerve his army any other way, than by lodging them in a camp near Schleſtadt, ſo fortified by art and nature, that it could not be forced.

To theſe we may add ſome examples of our own. In our late war, the Scots foot, whether friends or enemies, were much inferior to thoſe of the parliament, and their horſe eſteemed as nothing. Yet in the year 1639, and 1640, the king's army, though very numerous, excellently armed and mounted, and, in appearance, able to conquer many ſuch kingdoms as Scotland, being under the conduct of courtiers, and affected as men uſually are towards thoſe that uſe them ill, and ſeek to deſtroy them, they could never reſiſt a wretched army commanded by Leven; but were ſhamefully beaten at Newburn, and left the northern counties to be ravaged by them.

When Van Tromp ſet upon Blake in Folkſtone Bay, the parliament had not above thirteen ſhips againſt threeſcore, and not a man that had ever ſeen any other fight at ſea, than between a merchant-ſhip and a pirate, to oppoſe the beſt captain in the world, attended with many others in valour and experience not much inferior to him. Many other difficulties were obſerved in the unſettled ſtate: few ſhips, want of money, ſeveral factions, and ſome, who to advance particular intereſts betrayed the public. But ſuch was the power of wiſdom and integrity in thoſe that ſat at the helm, and their diligence in chooſing men only for their merit was bleſſed with ſuch ſucceſs, that in two years our fleets grew to be as famous as our land-armies; the reputation and power of our nation roſe to a greater height, than when we poſſeſſed the better half of France, and the kings of France and Scotland were our priſoners. All the ſtates, kings, and potentates of Europe, moſt reſpectfully, not to ſay ſubmiſſively, ſought our friendſhip; and Rome was more afraid of Blake and his fleet, than they had been of the great king of Sweden, when he was ready to invade

Italy

Italy with a hundred thouſand men. This was the work of thoſe, who, SECT. 28
if our author ſays true, "thought baſely of the public concernments;" and, believing things might be well enough managed by others, minded only their private affairs. Theſe were the effects of the negligence and ignorance of thoſe, who, being ſuddenly advanced to offices, were removed before they underſtood the duties of them. Theſe diſeaſes, which proceed from popular corruption and irregularity, were certainly cured by the reſtitution of that integrity, good order and ſtability, that accompany divine monarchy. The juſtice of the war made againſt Holland in the year 1665; the probity of the gentleman, who, without partiality or bribery, choſe the moſt part of the officers that carried it on; the wiſdom, diligence, and valour manifeſted in the conduct, and the glory with which it was ended, juſtifies all that our author can ſay in its commendation. If any doubt remains, the ſubtilty of making the king of France deſire, that the Netherlands might be an acceſſion to his crown; the ingenious ways taken by us to facilitate the conqueſt of them; the induſtry of our embaſſadors in diverting the Spaniards from entering into the war, till it was too late to recover the loſſes ſuſtained; the honourable deſign upon the Smyrna fleet, and our frankneſs in taking the quarrel upon ourſelves; together with the important figure we now make in Europe, may wholly remove it; and in confirmation of our author's doctrine, ſhew, that princes do better perform the offices that require wiſdom, induſtry, and valour, than annual magiſtrates; and do more ſeldom err in the choice of officers, than ſenates and popular aſſemblies.

SECTION XXIX

THERE IS NO ASSURANCE THAT THE DISTEMPERS OF A STATE SHALL BE CURED BY THE WISDOM OF A PRINCE.

But, ſays our author, the virtue and wiſdom of a prince ſupplies all: "though he were of a duller underſtanding, by uſe and experience he "muſt needs excel all." Nature, age, or ſex, are, as it ſeems, nothing to the caſe. A child, as ſoon as he comes to be a king, has experience; the head of a fool is filled with wiſdom, as ſoon as a crown is ſet upon it; and the moſt vicious do in a moment become virtuous. This is more ſtrange than that an aſs being trained to a courſe ſhould out-run the beſt Arabian horſe; or a hare bred up in an army become more ſtrong and fierce than a lion: for fortune does not only ſupply all natural defects in princes, and correct their vices, but gives them the benefit of uſe and experience, when they have none. Some reaſons and examples might have been expected to prove this extraordinary propoſition: but according to his laudable cuſtom, he is pleaſed to trouble himſelf with neither; and thinks, that the impudence of an aſſertion is ſufficient to make that to paſs,

CHAP. II which is repugnant to experience and common ſenſe, as may appear by the following diſcourſe.

I will not inſiſt upon terms; for though "duller underſtanding" ſignifies nothing, inaſmuch as no underſtanding is dull, and a man is ſaid to be dull only becauſe he wants it; but preſuming he means little underſtanding, I ſhall ſo take it. This defect may poſſibly be repaired in time; but to conclude it muſt be ſo, is abſurd, for no one has this uſe and experience when he begins to reign. At that time many errors may be committed to the ruin of himſelf or people, and many have periſhed even in their beginning. Edward the fifth and ſixth of England, Francis the ſecond of France, and divers other kings, have died in the beginning of their youth. Charles the ninth lived only to add the furies of youth to the follies of his childhood; and our Henry the ſecond, Edward the ſecond, Richard the ſecond, and Henry the ſixth, ſeem to have been little wiſer in the laſt, than in the firſt year of their reign or life. The preſent kings of Spain, France, and Sweden, came to the crowns they wear before the ſixth year of their age; and if they did then ſurpaſs all annual magiſtrates in wiſdom and valour, it was by a peculiar gift of God, which, for any thing we know, is not given to every king, and it was not uſe and experience that made them to excel. If it be pretended, that this experience, with the wiſdom that it gives, comes in time, and by degrees, I may modeſtly aſk, what time is required to render a prince excellent in wiſdom, who is a child or a fool? And who will give ſecurity that he ſhall live to that time, or that the kingdom ſhall not be ruined in the time of his folly? I may alſo doubt how our author, who concludes, that every king, in time, muſt needs become excellent in wiſdom, can be reconciled to Solomon, who, in preferring a wiſe child before an old and fooliſh king that will not be adviſed, ſhews, that an old king may be a fool, and that he who will not be adviſed is one. Some are ſo naturally brutiſh and ſtupid, that neither education nor time will mend them. It is probable that Solomon took what care he could to inſtruct his only ſon Rehoboam; but he was certainly a fool at forty years of age, and we have no reaſon to believe that he deſerved a better name. He ſeems to have been the very fool his father intended, who, though brayed in a mortar, would never leave his folly. He would not be adviſed, though the hand of God was againſt him; ten tribes revolted from him, and the city and temple was pillaged by the Egyptians. Neither experience nor afflictions could mend him, and he is called to this day by his own countrymen "ſtultitia gentium *." I might offend tender ears, if I ſhould allege all the examples of princes mentioned in hiſtory, or known in our own age, who have lived and died as fooliſh and incorrigible as he: but no man, I preſume, will be ſcandalized if I ſay, that the ten laſt kings of Meroveus's race, whom the French hiſtorians call "les rois faineants," were ſo far from excelling other men in underſtanding, that they lived and died more like to beaſts than men. Nay, the wiſdom and valour of Charles Martel expired in his grandchild

* Δια αφροσυνη, populi ſtultitia. Eccl. c. 47, v. 28.

Charles

Charles the Great; and his poſterity grew to be ſo ſottiſh, that the French nation muſt have periſhed under their conduct, if the nobility and people had not rejected them, and placed the crown upon a more deſerving head. SECT. 29

This is as much as is neceſſary to be ſaid to the general propoſition; for, if it be not always true, no concluſion can be drawn from it. But I need not be ſo ſtrict with our author, there being no one ſound part in his aſſertion. Many children come to be kings when they have no experience, and die, or are depoſed, before they can gain any. Many are by nature ſo ſottiſh that they can learn nothing. Others falling under the power of women, or corrupt favourites and miniſters, are perſuaded and ſeduced from the good ways to which their own natural underſtanding or experience might lead them. The evils drawn upon themſelves, or their ſubjects, by the errors committed in the time of their ignorance, are often grievous, and ſometimes irreparable, though they ſhould be made wiſe by time and experience. A perſon of royal birth, and excellent wit, was ſo ſenſible of this as to tell me, "that the condition of kings was moſt "miſerable, inaſmuch as they never heard truth till they were ruined by "lyes; and then every one was ready to tell it to them, not by way of "advice, but reproach, and rather to vent their own ſpite, than to ſeek a "remedy to the evils brought upon them, and the people." Others attain to crowns when they are of full age, and have experience as men, though none as kings; and therefore are apt to commit as great miſtakes as children. And, upon the whole matter, all the hiſtories of the world ſhew, that, inſtead of this profound judgment, and incomparable wiſdom, which our author generally attributes to all kings, there is no ſort of men that do more frequently and entirely want it.

But though kings were always wiſe by nature, or made to be ſo by experience, it would be of little advantage to nations under them, unleſs their wiſdom were pure, perfect, and accompanied with clemency, magnanimity, juſtice, valour, and piety. Our author himſelf durſt hardly have ſaid, that theſe virtues or graces are gained by experience, or annexed by God to any rank of men or families. He gives them where he pleaſes without diſtinction. We ſometimes ſee thoſe upon thrones, who by God and nature ſeem to have been deſigned for the moſt ſordid offices; and thoſe have been known to paſs their lives in meanneſs and poverty, who had all the qualities that could be deſired in princes. There is likewiſe a kind of ability to diſpatch ſome ſort of affairs, that princes who continue long on a throne may to a degree acquire or increaſe. Some men take this for wiſdom; but king James more rightly called it by the name of "king-"craft;" and as it principally conſiſts in diſſimulation, and the arts of working upon mens paſſions, vanities, private intereſts, or vices, to make them for the moſt part inſtruments of miſchief, it has the advancement or ſecurity of their own perſons for its object, is frequently exerciſed with all the exceſſes of pride, avarice, treachery, and cruelty; and no men have been ever found more notoriouſly to deflect from all that deſerves

CHAP. II praiſe in a prince, or a gentleman, than thoſe that have moſt excelled in it. Pharaſmanes king of Iberia is recorded by Tacitus to have been well verſed in this ſcience *. His brother Mithridates king of Armenia had married his daughter, and given his own daughter to Rhadamiſtus ſon of Pharaſmanes. He had ſome conteſts with Mithridates; but, by the help of theſe mutual alliances, nearneſs of blood, the diligence of Rhadamiſtus, and an oath, ſtrengthened with all the ceremonies that among thoſe nations were eſteemed moſt ſacred, not to uſe arms or poiſon againſt him, all was compoſed; and, by theſe means getting him into his power, he ſtifled him with a great weight of clothes thrown upon him †, killed his children, and not long after his own ſon Rhadamiſtus. Louis the eleventh of France, James the third of Scotland, Henry the ſeventh of England, were great maſters of theſe arts: and thoſe who are acquainted with hiſtory, will eaſily judge, how happy nations would be, if all kings did in time certainly learn them.

Our author, as a farther teſtimony of his judgment, having ſaid, that kings muſt needs excel others in underſtanding, and grounded his doctrine upon their profound wiſdom, imputes to them thoſe "baſe and panic "fears," which are inconſiſtent with it, or any royal virtue; and to carry the point higher, tells us, "there is no tyrant ſo barbarouſly wicked, but "his own reaſon and ſenſe will tell him, that though he be a god, yet "he muſt die like a man; and that there is not the meaneſt of his ſub-"jects, but may find a means to revenge himſelf of the injuſtice that is "offered him;" and from thence concludes, that "there is no ſuch ty-"ranny as that of a multitude, which is ſubject to no ſuch fears." But if there be ſuch a thing in the world as a barbarous and wicked tyrant, he is ſomething different from a king, or the ſame; and his wiſdom is conſiſtent or inconſiſtent with barbarity, wickedneſs, and tyranny. If there be no difference, the praiſes he gives, and the rights he aſcribes to the one, belong alſo to the other; and the excellency of wiſdom may conſiſt with barbarity, wickedneſs, tyranny, and the panic fears that accompany them; which hitherto have been thought to comprehend the utmoſt exceſſes of folly and madneſs. I know no better teſtimony of the truth of that opinion, than that wiſdom always diſtinguiſhing good from evil, and being ſeen only in the rectitude of that diſtinction, in following and adhering to the good, rejecting that which is evil, preferring ſafety before danger, happineſs before miſery, and in knowing rightly how to uſe the means of attaining or preſerving the one, and preventing or avoiding the other, there cannot be a more extravagant deviation from reaſon, than for a man, who in a private condition might live ſafely and happily, to invade a principality; or if he be a prince, who by governing with juſtice and clemency might obtain the inward ſatisfaction of his own mind, hope for

* Tacit. Ann. l. 12, § 44, et ſeq. l. 13, § 37

† Rhadamiſtus was the principal agent in theſe acts of treachery and cruelty.——Rhadamiſtus quaſi jurisjurandi memor, non ferrum, non venenum in ſororem et patruum expromit, ſed projectos in humum, et veſte multâ gravique opertos necat. Ibid. l. 12, § 47

the bleſſing of God upon his juſt and virtuous actions, acquire the love and praiſes of men, and live in ſafety and happineſs amongſt his ſafe and happy ſubjects, to fall into that barbarity, wickedneſs, and tyranny, which brings upon him the diſpleaſure of God, and deteſtation of men, and is always attended with thoſe baſe and panic fears, which comprehend all that is ſhameful and miſerable. This being perceived by Machiavel, he could not think, that any man in his ſenſes would not rather be a Scipio than a Caeſar; or, if he came to be a prince, would not rather chooſe to imitate Ageſilaus, Timoleon, or Dion, than Nabis, Phalaris, or Dionyſius; and imputes the contrary choice to madneſs *. Nevertheleſs, it is too well known, that many of our author's profound wiſe men in the depth of their judgment, made perfect by uſe and experience, have fallen into it. SECT. 29

If there be a difference between this barbarous wicked tyrant, and a king, we are to examine who is the tyrant, and who the king; for the name conferred or aſſumed cannot make a king, unleſs he be one. He who is not a king, can have no title to the rights belonging to him who is truly a king: ſo that a people, who find themſelves wickedly and barbarouſly oppreſſed by a tyrant may deſtroy him and his tyranny, without giving offence to any king.

But it is ſtrange that Filmer ſhould ſpeak of the barbarity and wickedneſs of a tyrant, who looks upon the world to be the patrimony of one man; and, for the foundation of his doctrine, aſſerts ſuch a power in every one that makes himſelf maſter of any part, as cannot be limited by any law. His title is not to be queſtioned; uſurpation and violence confer an inconteſtable right; the exerciſe of his power is no more to be diſputed than the acquiſition; his will is a law to his ſubjects; and no law can be impoſed by them upon his conduct. For if theſe things be true, I know not how any man could ever be called a tyrant, that name having never been given to any, unleſs for uſurping a power that did not belong to him, or an unjuſt exerciſe of that which had been conferred upon him, and violating the laws which ought to be a rule to him. It is alſo hard to imagine how any man can be called barbarous and wicked, if he be obliged by no law but that of his own pleaſure; for we have no other notion of wrong, than that it is a breach of the law which determines what is right. If the lives and goods of ſubjects depend upon the will of the prince, and he in his profound wiſdom preſerve them only to be beneficial to himſelf, they can have no other right than what he gives, and without injuſtice may retain when he thinks fit. If there be no wrong, there can be no juſt revenge; and he that pretends to ſeek it is not a free man vindicating his right, but a perverſe ſlave riſing up againſt his maſter. But if there

* Ed è impoſſible che quelli che in ſtato privato vivono in una republica, o che per fortuna o virtù ne diventano principi, ſe leggeſſino l'iſtorie, e delle memorie delle antiche coſe faceſſino capitale, che non voleſſero quelli tali privati vivere nella loro patria, piuttoſto Scipioni che Ceſari; e quelli che ſono principi piuttoſto Ageſilai, Timoleoni, e Dioni, che Nabidi, Falari, e Dioniſi; perche vedrebbono queſti eſſere ſommamente vituperati, e quelli eccеſſivamente laudati. Diſcorſi ſopra T. Livio, l. 1, c. 10.

be

CHAP. II be ſuch a thing as a barbarous and wicked tyrant, there muſt be a rule relating to the acquiſition and exerciſe of the power, by which he may be diſtinguiſhed from a juſt king; and a law ſuperior to his will, by the violation of which he becomes barbarous and wicked.

Though our author ſo far forgets himſelf, as to confeſs this to be true, he ſeeks to deſtroy the fruits of it by ſuch flattery as comprehends all that is moſt deteſtable in profaneneſs and blaſphemy, and gives the name of "gods" to the moſt execrable of men. He may by ſuch language deſerve the name of Heylin's diſciple; but will find few among the heathens ſo baſely ſervile, or ſo boldly impious. Though Claudius Caeſar was a drunken ſot, and tranſported with the extravagance of his fortune, he deteſted the impudence of his predeceſſor Caligula, who affected that title; and in his edict in favour of the Jews, gives it no better name than "inſolentem Caii inſaniam*." For this reaſon it was rejected by all his pagan ſucceſſors, who were not as furiouſly wicked as he: yet Filmer has thought fit to renew it, for the benefit of mankind, and the glory of the chriſtian religion.

I know not whether theſe extreme and barbarous errors of our author are to be imputed to wickedneſs or madneſs; or whether, to ſave the pains of a diſtinction, they may not rightly be ſaid to be the ſame thing; but nothing leſs than the exceſs of both could induce him to attribute any thing of good to the fears of a tyrant, ſince they are the chief cauſes of all the miſchiefs he does †. Tertullian ſays, they are "metu quàm furore ſaeviores." Tacitus, ſpeaking of a moſt wicked king, ſays, ignaviam ſaevitiâ texit‡; and we do not more certainly find, that cowards are the cruelleſt of men, than that wickedneſs makes them cowards; that every man's fears bear a proportion with his guilt, and with the number, virtue, and ſtrength of thoſe he has offended. He who uſurps a power over all, or abuſes a truſt repoſed in him by all, in the higheſt meaſure offends all: he fears and hates thoſe he has offended, and to ſecure himſelf aggravates the former injuries. When theſe are public, they beget a univerſal hatred, and every man deſires to extinguiſh a miſchief that threatens ruin to all. This will always be terrible to one who knows he has deſerved it; and when thoſe he dreads are the body of the people, nothing but a public deſtruction can ſatisfy his rage, and appeaſe his fears.

I wiſh I could agree with Filmer, in exempting multitudes from fears; for they having ſeldom committed any injuſtice, unleſs through fear, would, as far as human fragility permits, be free from it. Though the

* Επιγνους .... Αλεξανδρεις επαρθηναι κατα των παρ' αυτοις Ιεδαιων επι τε Γαϊε Καισαρος χρονων, τε δια την πολλην ΑΠΟΝΟΙΑΝ και ΠΑΡΑΦΡΟΣΥΝΗΝ, ὁτι μη παραβηναι ηθελησε το Ιεδαιων εθνος την πατριον θρησκειαν, και ΘΕΟΝ προσαγορευειν αυτον, ταπεινωσαντος αυτες· βελομαι μηδεν δια την Γαϊε παραφροσυνην των δικαιων τω Ιεδαιων εθνει παραπεπλωκεναι. Joſ. Antiq. Jud. l. 19, c. 5. Edit. Hudſoni

† Joſephus ſays of Caligula—τα μεν φοβερα καταπεπληγμενος, και δια τετο φονικωτατος. Antiq. Jud. l. 19, c. 2

‡ Gotarzes, dum ſecors domi, bellis infauſtus, ignaviam ſaevitiâ tegat. Tacit. Ann. l. 12, § 10

Attic

Attic oſtraciſm was not an extreme puniſhment, I know nothing uſually practiſed in any commonwealth, that did ſo much ſavour of injuſtice: but it proceeded ſolely from a fear that one man, though in appearance virtuous, when he came to be raiſed too much above his fellow-citizens, might be tempted to invade the public liberty. We do not find, that the Athenians, or any other free cities, ever injured any man, unleſs through ſuch a jealouſy, or the perjury of witneſſes, by which the beſt tribunals that ever were, or can be eſtabliſhed in the world, may be miſled; and no injuſtice could be apprehended from any, if they did not fall into ſuch fears. SECT. 29

But though multitudes may have fears as well as tyrants, the cauſes and effects of them are very different. A people, in relation to domeſtic affairs, can deſire nothing but liberty, and neither hate nor fear any but ſuch as do, or would, as they ſuſpect, deprive them of that happineſs. Their endeavours to ſecure that ſeldom hurt any, except ſuch as invade their rights; and if they err, the miſtake is for the moſt part diſcovered before it produce any miſchief; and the greateſt that ever came that way was the death of one or a few men. Their hatred and deſire of revenge can go no farther than the ſenſe of the injury received or feared, and is extinguiſhed by the death or baniſhment of the perſons; as may be gathered from the examples of the Tarquins, decemviri, Caſſius, Moelius, and Manlius Capitolinus. He therefore that would know whether the hatred and fear of a tyrant, or of a people, produces the greater miſchiefs, needs only to conſider, whether it be better, that the tyrant deſtroy the people, or the people deſtroy the tyrant; or, at the worſt, whether one that is ſuſpected of affecting the tyranny ſhould periſh, or a whole people, amongſt whom very many are certainly innocent; and experience ſhews, that ſuch are always firſt ſought out to be deſtroyed for being ſo. Popular furies or fears, how irregular or unjuſt ſoever they may be, can extend no farther. General calamities can only be brought upon a people by thoſe who are enemies to the whole body, which can never be the multitude, for they are that body. In all other reſpects, the fears that render a tyrant cruel render a people gentle and cautious; for every ſingle man, knowing himſelf to be of little power, not only fears to do injuſtice, becauſe it may be revenged upon his perſon, by him, or his friends, kindred, and relations, that ſuffers it; but becauſe it tends to the overthrow of the government, which comprehends all public and private concernments, and which every man knows cannot ſubſiſt unleſs it be ſo eaſy and gentle, as to be pleaſing to thoſe who are the beſt, and have the greateſt power. And as the public conſiderations divert them from doing thoſe injuries that may bring immediate prejudice to the public, ſo there are ſtrict laws to reſtrain all ſuch as would do private injuries. If neither the people nor the magiſtrates of Venice, Switzerland, and Holland, commit ſuch extravagancies as are uſual in other places, it does not perhaps proceed from the temper of thoſe nations different from others, but from a knowledge, that whoever offers an injury to a private perſon, or attempts a public miſchief,

CHAP. II miſchief, is expoſed to the impartial and inexorable power of the law. Whereas the chief work of an abſolute monarch is to place himſelf above the law, and thereby rendering himſelf the author of all the evils that the people ſuffer, it is abſurd to expect that he ſhould remove them.

SECTION XXX

A MONARCHY CANNOT BE WELL REGULATED, UNLESS THE POWERS OF THE MONARCH ARE LIMITED BY LAW.

Our author's next ſtep is not only to reject popular governments, but all ſuch monarchies as are not abſolute: "for if the king," ſays he, "admits the people to be his companions, he leaves to be a king." This is the language of French lackeys, valet-de-chambres, taylors, and others like them in wiſdom, learning, and policy, who when they fly to England for fear of a well-deſerved gally, gibbet, or wheel, are ready to ſay, "Il faut que le roi ſoit abſolu, autrement il n'eſt point roi." And finding no better men to agree with Filmer in this ſublime philoſophy, I may be pardoned if I do not follow them, till I am convinced in theſe enſuing points.

1. It ſeems abſurd to ſpeak of kings admitting the nobility or people to part of the government: for though there may be, and are, nations without kings, yet no man can conceive a king without a people. Theſe muſt neceſſarily have all the power originally in themſelves; and though kings may and often have a power of granting honours, immunities, and privileges, to private men or corporations, he does it only out of the public ſtock, which he is entruſted to diſtribute; but can give nothing to the people, who give to him all that he can rightly have.

2. It is ſtrange, that he, who frequently cites Ariſtotle and Plato, ſhould unluckily acknowledge ſuch only to be kings as they call tyrants, and deny the name of king to thoſe, who, in their opinion, are the only kings.

3. I cannot underſtand why the Scripture ſhould call thoſe kings whoſe powers were limited, if they only are kings who are abſolute; or why Moſes did appoint, that the power of kings in Iſrael, if they reſolved to have them, ſhould be limited *, if that limitation deſtroyed the being of a king.

4. And laſtly, how he knows, that in the kingdoms which have a ſhew of popularity, the power is wholly in the king.

The firſt point was proved when we examined the beginning of monarchies, and found it impoſſible, that there could be any thing of juſtice in them, unleſs they were eſtabliſhed by the common conſent of thoſe who

* Deut. ch. 17, v. 16—20

were

were to live under them; or that they could make any ſuch eſtabliſhment, unleſs the right and power were in them. SECT. 30

Secondly, neither Plato nor Ariſtotle acknowledge either reaſon or juſtice in the power of a monarch, unleſs he has more of the virtues conducing to the good of the civil ſociety than all thoſe who compoſe it; and employ them for the public advantage, and not to his own pleaſure and profit, as being ſet up by thoſe who ſeek their own good, for no other reaſon than that he ſhould procure it. To this end a law is ſet as a rule to him, and the beſt men, that is, ſuch as are moſt like to himſelf, made to be his aſſiſtants, becauſe, ſay they, "lex eſt mens ſine affectu, et "quaſi deus*;" whereas the beſt of men have their affections and paſſions, and are ſubject to be miſled by them: which ſhews, that as the monarch is not for himſelf, nor by himſelf, he does not give, but receive power, nor admit others to the participation of it, but is by them admitted to what he has. Whereupon they conclude, that to prefer the abſolute power of a man, as in thoſe governments which they call "barbarorum "regna," before the regular government of kings juſtly exerciſing a power inſtituted by law, and directed to the public good, is to chooſe rather to be ſubject to the luſt of a beaſt, than to be governed by a god. And becauſe ſuch a choice can only be made by a beaſt, I leave our author to find a deſcription of himſelf in their books, which he ſo often cites.

But if Ariſtotle deſerve credit, the princes who reign for themſelves and not for the people, preferring their own pleaſure or profit before the public, become tyrants†; which, in his language, is, enemies to God and man. On this account Boccalini introduces the princes of Europe raiſing a mutiny againſt him in Parnaſſus, for giving ſuch definitions of tyrants as they ſaid comprehended them all; and forcing the poor philoſopher to declare by a new definition, that "tyrants were certain men of antient "times, whoſe race is now extinguiſhed‡." But with all his wit and learning he could not give a reaſon, why thoſe, who do the ſame things that rendered the antient tyrants deteſtable, ſhould not be ſo alſo in our days.

In the third place, the Scriptures declare the neceſſity of ſetting bounds to thoſe who are placed in the higheſt dignities. Moſes ſeems to have had as great abilities as any man that ever lived in the world; but he alone was not able to bear the weight of the government, and therefore God appointed ſeventy choſen men to be his aſſiſtants. This was a perpetual law to Iſrael; and as no king was to have more power than Moſes, or more abilities to perform the duties of his office, none could be exempted from the neceſſity of wanting the like helps. Our author therefore muſt

* Ανευ ορεξεως νους ὁ νομος εστι. Ariſt. Polit. l. 3, c. 16. Vide ſuprà, p. 108

† Ἡ μεν τυραννις εστι μοναρχια προς το συμφερον το του μοναρχουντος. Ariſt. Polit. l. 3, c. 7.—Ὁ μεν τυραννος του ἑαυτου συμφερον σκοπει· ὁ δε βασιλευς, του των αρχομενων. Ariſt. Ethic. l. 8, c. 12. Polit. l. 4, c. 10.

‡ Che i tiranni furono certi uomini del tempo antico, de' quali oggi giorno affatto ſi era perdutala razza. Boccal. Rag. di Parnaſ. cent. 1, rag. 76

CHAP. II. confeſs, that they are kings who have them, or that kingly government is contrary to the Scriptures. When God by Moſes gave liberty to his people to make a king, he did it under theſe conditions. "He muſt be one "of their brethren: they muſt chooſe him: he muſt not multiply gold, "ſilver, wives, or horſes; he muſt not lift up his heart above his bre-"thren *." And Joſephus paraphraſing upon the place, ſays, "he ſhall "do nothing without the advice of the ſanhedrim; or if he do, they ſhall "oppoſe him †." This agrees with the confeſſion of Zedekiah to the princes, who were the ſanhedrim, "the king can do nothing without "you ‡;" and ſeems to have been in purſuance of the law of the kingdom, which was written in a book, and laid up before the Lord; and could not but agree with that of Moſes, unleſs they ſpake by different ſpirits, or the ſpirit by which they did ſpeak was ſubject to error or change: and the whole ſeries of God's law ſhews, that the pride, magnificence, pomp, and glory, uſurped by their kings, was utterly contrary to the will of God. They did lift up their hearts above their brethren, which was forbidden by the law. All the kings of Iſrael, and moſt of the kings of Judah, utterly rejected it, and every one of them did very much depart from the obſervation of it. I will not deny, that the people in their inſtitution of a king intended they ſhould do ſo: they had done it themſelves, and would have a king that might uphold them in their diſobedience. They were addicted to the idolatry of their accurſed neighbours, and deſired that government by which it was maintained amongſt them. In doing this they did not reject Samuel; but they rejected God, that he ſhould not reign over them. They might perhaps believe, that, unleſs their king were ſuch as the law did not permit, he would not perform what they intended; or that the name of king did not belong to him, unleſs he had a power that the law denied. But ſince God and his prophets give the name of king to the chief magiſtrate, endowed with a power that was reſtrained within very narrow limits, whom they might without offence ſet up, we alſo may ſafely give the ſame to thoſe of the ſame nature, whether it pleaſe Filmer or not.

4. The practice of moſt nations, and, I may truly ſay, of all that deſerve imitation, has been as directly contrary to the abſolute power of one man, as their conſtitutions: or if the original of many governments lie hid in the impenetrable darkneſs of antiquity, their progreſs may ſerve to ſhew the intention of the founders. Ariſtotle ſeems to think, that the firſt monarchs, having been choſen for their virtue, were little reſtrained in the exerciſe of their power; but that they, or their children, falling into corruption and pride, grew odious; and that nations did on that account

* Deut. ch. 17, v. 15, 16, 17, 20.

† Πρασσετω μηδεν διχα τε αρχιερεως, και της των γερεσιαςων γνωμης· γαμοις τε μη πολλοις χρωμενος, &c. . . . κωλυεσθω δ', ει τετων τι δια σπευδης εχοι, γινεσθαι τα συμφεροντος υμιν δυνατωτερος. Joſ. Antiq. Jud. l. 4, c. 8

‡ Then Zedekiah the king ſaid, behold Jeremiah is in your hand: for the king is not he that can do any thing againſt you. Jer. ch. 38, v. 5.

either abolish their authority, or create senates, and other magistrates, SECT. 30
who, having part of the power, might keep them in order *. The Spartan kings were certainly of this nature; and the Persian, till they conquered Babylon. Nay, I may safely say, that neither the kings which the frantic people set up in opposition to the law of God, nor those of the bordering nations, whose example they chose to follow, had that absolute power which our author attributes to all kings, as inseparable from the name. Achish the Philistine loved and admired David; he looked upon him as an angel of God; and promised that he should be the keeper of his head for ever; but when the princes suspected him, and said, "he "shall not go down with us to battle," he was obliged to dismiss him †. This was not the language of slaves, but of those who had a great part in the government; and the king's submission to their will shews, that he was more like to the kings of Sparta, than to an absolute monarch, who does whatever pleases him. I know not whether the Spartans were descended from the Hebrews, as some think, but their kings were under a regulation much like that of the xvii of Deut. though they had two. Their senate of twenty eight, and the ephori, had a power like to that of the sanhedrim; and by them kings were condemned to fines, imprisonment, banishment, and death, as appears by the examples of Pausanias, Cleonymus, Leonidas, Agis, and others. The Hebrew discipline was the same: "Reges Davidicae stirpis," says Maimonides, "judicabant et "judicabantur ‡." They gave testimony in judgment when they were called, and testimony was given against them. Whereas the kings of Israel, as the same author says, were "superbi, corde elati, et spretores "legis, nec judicabant, nec judicabantur;" proud, insolent, and contemners of the law, who would neither judge, nor submit to judgment as the law commanded. The fruits they gathered were suitable to the seed they had sown. Their crimes were not left unpunished: they who despised the law were destroyed without law; and when no ordinary course could be taken against them for their excesses, they were overthrown by force, and the crown within the space of a few years was transported into nine several families, with the utter extirpation of those that had possessed it. On the other hand, there never was any sedition against the Spartan kings; and after the moderate discipline, according to which they lived, was established, none of them died by the hands of their subjects, except only two, who were put to death in a way of justice: the kingdom continued in the same races, till Cleomenes was defeated by Antigonus, and the government overthrown by the Macedonians. This gave occasion to those bestial tyrants Nabis and Machanidas to set up such a govern-

* Arist. Polit. l. 3, c. 15 † 1 Sam. ch. 29, v. 4, 10

‡ "Rex non judicat neque judicatur." Hoc tantùm de Israelitarum regibus intelligendum est, qui transgressores erant in regno ipsorum, non cordi habentibus humilitatem, neque ad legis verba attendentibus. Sed reges ex stirpe Davidis judicabant et judicabantur, quia illi legem intelligebant, et humilitas non erat mala in oculis eorum. Comment. Maimonid. apud Mischna, in Tract. de Synedriis. vol. 4, p. 217, Edit. Surenhusii. Seld. de Syned. l. 3, c. 9

CHAP. II ment as our author recommends to the world, which immediately brought deſtruction upon themſelves, and the whole city. The Germans, who pretended to be deſcended from the Spartans, had the like government. Their princes, according to their merit, had the credit of perſuading, not the power of commanding *; and the queſtion was not, what part of the government they would allow to the nobility and people, but what the nobility and people would give to their princes: and it is not much material to our preſent diſpute, whether they learned this from ſome obſcure knowledge of the law which God gave to his people, or whether, led by the light of reaſon, which is alſo from God, they diſcovered what was altogether conformable to that law. Whoever underſtands the affairs of Germany knows that the preſent emperors, notwithſtanding their haughty title, have a power limited as in the days of Tacitus. If they are good and wiſe, they may perſuade; but they can command no farther than the law allows. They do not admit the princes, noblemen, and cities, to the power which they all exerciſe in their general diets, and each of them within their own precincts; but they exerciſe that which has been by public conſent beſtowed upon them. All the kingdoms peopled from the north obſerved the ſame rules. In all of them the powers were divided between the kings, the nobility, clergy, and commons; and by the decrees of councils, diets, parliaments, cortes, and aſſemblies of eſtates, authority and liberty were ſo balanced, that ſuch princes as aſſumed to themſelves more than the law did permit, were ſeverely puniſhed; and thoſe, who did by force or fraud invade thrones, were by force thrown down from them.

This was equally beneficial to kings and people. The powers, as Theopompus king of Sparta ſaid, were moſt ſafe, when they were leaſt envied and hated †. Lewis the eleventh of France was one of the firſt that broke this golden chain; and, by more ſubtile arts than had been formerly known, ſubverted the laws, by which the fury of kings had been reſtrained, and taught others to do the like; though all of them have not ſo well ſaved themſelves from puniſhment. James the third of Scotland was one of his moſt apt ſcholars; and Buchanan, in his life, ſays, "that "he was precipitated into all manner of infamy by men of the moſt abject "condition; that the corruption of thoſe times, and the ill example of "neighbouring princes, were conſiderable motives to pervert him: for "Edward the fourth of England, Charles of Burgundy, Lewis the "eleventh of France, and John the ſecond of Portugal, had already laid "the foundations of tyranny in thoſe countries; and Richard the third "was then moſt cruelly exerciſing the ſame in the kingdom of England ‡."

* Rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia eſt, audiuntur, auctoritate ſuadendi magis quàm jubendi poteſtate. Tacit. de Morib. Germ. § 11

† Vide ſuprà, p. 91.—Plutarch obſerves, that Theopompus, by the creation of the Ephori, μετα τε φθονε διεφυγε τον κινδυνον. Plut. in vitâ Lycurgi.

‡ Ab hominibus infimae ſortis in omnia ſimul vitia eſt praeceps datus: tempora etiam corrupta, et vicinorum regum exempla, non parum ad eum evertendum juverunt. Nam et Edvardus

This could not have been, if all the power had always been in kings, SECT. 30
and neither the people, nor the nobility, had ever had any: for no man can be ſaid to gain that which he, and his predeceſſors always poſſeſſed, or to take from others that which they never had; nor to ſet up any ſort of government, if it had been always the ſame. But the aforeſaid Lewis the eleventh did aſſume to himſelf a power above that of his predeceſſors; and Philip de Comines ſhews the ways by which he acquired it, with the miſerable effects of his acquiſition, both to himſelf and to his people. Modern authors obſerve, that the change was made by him; and, for that reaſon, he is ſaid by Mezeray, and others, "to have brought thoſe "kings out of guardianſhip*:" they were not therefore ſo, till he did emancipate them. Nevertheleſs, this emancipation had no reſemblance to the unlimited power, of which our author dreams. The general aſſemblies of eſtates were often held long after his death, and continued in the exerciſe of the ſovereign power of the nation. Davila, ſpeaking of the general aſſembly held at Orleans in the time of Francis the ſecond, aſſerts the whole power of the nation to have been in them †. Monſieur de Thou ſays the ſame thing, and adds, that the king dying ſuddenly, the aſſembly continued, even at the deſire of the council, in the exerciſe of that power, till they had ſettled the regency, and other affairs of the higheſt importance, according to their own judgment ‡. Hottoman a lawyer of that time and nation, famous for his learning, judgment, and integrity, having diligently examined the antient laws and hiſtories of that kingdom, diſtinctly proves, that the French nation never had any kings, but of their own chooſing; that their kings had no power, except what was conferred upon them; and that they had been removed, when they exceſſively abuſed, or rendered themſelves unworthy of that truſt §. This is ſufficiently clear by the forecited examples of Pharamond's grandchildren, and the degenerated races of Meroveus and Pepin; of which many were depoſed, ſome of the neareſt in blood excluded; and, when their vices ſeemed to be incorrigible, they were wholly rejected. All this was done by virtue of that rule, which they call the ſalic law: and though ſome of

Edvardus quartus in Angliâ, Carolus in Burgundiâ, Ludovicus undecimus in Galliâ, Joannes ſecundus in Luſitaniâ, tyrannidis fundamenta jecerunt: Richardus tertius in Angliâ immaniſſimè eam exercuit. Buch. Rer. Scot. Hiſt. l. 12, prope finem.

* Il aima mieux ſuivre ſes fantaiſies déréglées, que les ſages loix de l'etat, et il fit conſiſter ſa grandeur dans l'oppreſſion de ſes peuples, dans l'abbaiſſement des grands, et l'élévation des gents de néant. C'eſt ce qu'un autre a apellé "mettre les rois hors de page:" il devoit dire les "mettre hors du ſens, et de la raiſon." Mezeray, en la vie de Louis XI

† Convengono trè deputati per ciaſchedun bagliaggio, uno degli eccleſiaſtici, uno della nobilità, et uno del corpo della plebe: radunati tutti inſieme alla preſenza del rè, de i principi del ſangue, e de gli officiali della corona, formano il corpo degli ſtati generali, e rappreſentano l'autorità, il nome, e la poteſtà di tutta la nazione. Iſtor. delle Guerre Civili, l. 2, p. 36, Edit. 1646.—Nella congregazione de' quali ſi riduce la poteſtà di tutta la nazione. l. 1, p. 5

‡ Interim dum rex adoleſcat, et ipſe per ſe regno adminiſtrando ſupereſſe poſſit, rè viſum, ut comitia regni cogerentur, et ex eorum ſententiâ et auctoritate publico regimini proſpiceretur. Thuan. Hiſt. l. 27, ſub ann. 1560. tom. 2, p. 6. Edit. Genev. 1626

§ Hottomanni Franco-Gallia, c. 6.

our

CHAP. II our princes, pretending to the inheritance of that crown by marrying the heirs general, denied that there was any ſuch thing, no man can ſay, that, for the ſpace of above twelve hundred years, females, or their deſcendents, who are by that law excluded, have ever been thought to have any right to the crown: and no law, unleſs it be explicitly given by God, can be of greater authority than one, which has been in force for ſo many ages. What the beginning of it was, is not known: but Charles the ſixth, receding from this law, and thinking to diſpoſe of the ſucceſſion otherwiſe than was ordained by it, was eſteemed mad, and all his acts reſcinded. And though the reputation, ſtrength, and valour of the Engliſh, commanded by Henry the fifth, one of the braveſt princes that have ever been in the world, was terrible to the French nation; yet they oppoſed him to the utmoſt of their power, rather than ſuffer that law to be broken. And though our ſucceſs under his conduct was great and admirable; yet ſoon after his death, with the expence of much blood and treaſure, we loſt all that we had on that ſide, and ſuffered the penalty of having unadviſedly entered into that quarrel. By virtue of the ſame law, the agreement made by king John, when he was priſoner at London, by which he had alienated part of that dominion, as well as that of Francis the firſt, concluded when he was under the ſame circumſtances at Madrid, were reputed null; and upon all occaſions that nation has given ſufficient teſtimony, that the laws by which they live are their own, made by themſelves, and not impoſed upon them. And it is as impoſſible for them, who made and depoſed kings, exalted or depreſſed reigning families, and preſcribed rules to the ſucceſſion, to have received from their own creatures the power, or part of the government they had, as for a man to be begotten by his own ſon. Nay, though their conſtitutions were much changed by Lewis the eleventh, yet they retained ſo much of their antient liberty, that in the laſt age, when the houſe of Valois was as much depraved as thoſe of Meroveus and Pepin had been, and Henry the third by his own lewdneſs, hypocriſy, cruelty, and impurity, together with the baſeneſs of his minions and favourites, had rendered himſelf odious and contemptible to the nobility and people, the great cities, parliaments, the greater, and in political matters the ſounder part of the nation, declared him to be fallen from the crown, and purſued him to death, though the blow was given by the hand of a baſe and half-diſtracted monk.

Henry of Bourbon was without controverſy the next heir; but neither the nobility nor the people, who thought themſelves in the government, would admit him to the crown, till he had given them ſatisfaction, that he would govern according to their laws, by abjuring his religion, which they judged inconſiſtent with them.

The later commotions in Paris, Bourdeaux, and other places, together with the wars for religion, ſhew, that though the French do not complain of every grievance, and cannot always agree in the defence and vindication of their violated liberties, yet they very well underſtand their rights;

and

and that, as they do not live by or for the king, but he reigns by and for them, their privileges are not from him, but his crown is from them; and that, according to the true rule of their government, he can do nothing againſt their laws, or if he do, they may oppoſe him. SECT. 30

The inſtitution of a kingdom is the act of a free nation; and whoever denies them to be free, denies that there can be any thing of right in what they ſet up. That which was true in the beginning is ſo, and muſt be ſo for ever. This is ſo far acknowledged by the higheſt monarchs, that in a treatiſe publiſhed in the year 1667, by authority of the preſent king of France, to juſtify his pretenſions to ſome part of the Low Countries, notwithſtanding all the acts of himſelf, and the king of Spain to extinguiſh them, it is ſaid, "that kings are under the happy inability to do "any thing againſt the laws of their country *." And though perhaps he may do things contrary to law, yet he grounds his power upon the law; and the moſt able and moſt truſted of his miniſters declare the ſame. About the year 1660, the count d'Aubijoux, a man of eminent quality in Languedoc, but averſe to the court, and hated by cardinal Mazarin, had been tried by the parliament of Tholouſe for a duel, in which a gentleman was killed; and it appearing to the court, then in that city, that he had been acquitted upon forged letters of grace, falſe witneſſes, powerful friends, and other undue means, Mazarin deſired to bring him to a new trial: but the chancellor Seguier told the queen-mother, it could not be done; for the law did not permit a man once acquitted to be again queſtioned for the ſame fact; and that if the courſe of the law were interrupted, neither the ſalic law, nor the ſucceſſion of her children, nor any thing elſe, could be ſecure in France.

This is farther proved by the hiſtories of that nation. The kings of Meroveus and Pepin's races were ſuffered to divide the kingdom amongſt their ſons; or, as Hottoman ſays, the eſtates made the diviſion, and allotted to each ſuch a part as they thought fit †. But when this way was found to be prejudicial to the public, an act of ſtate was made in the time of Hugh Capet, by which it was ordained, that for the future the kingdom ſhould not be diſmembred: which conſtitution continuing in force to this day, the ſons or brothers of their kings receive ſuch an appanage, they call it, as is beſtowed on them, remaining ſubject to the crown as well as other men. And there has been no king of France ſince that time, except only Charles the ſixth, who has not acknowledged, that he cannot alienate any part of their dominion.

Whoever imputes the acknowledgment of this to king-craft, and ſays, that they who avow this, when it is for their advantage, will deny it on a different occaſion, is of all men their moſt dangerous enemy. In laying ſuch fraud to their charge he deſtroys the veneration by which they ſubſiſt, and teaches ſubjects not to keep faith with thoſe, who by the moſt mali-

* Que les rois ont cette bien-heureuſe impuiſſance, de ne pouvoir rien faire contre les loix de leur pays. Traité des Droits de la regne.

† Franco-Gall. c. 7.

cious

CHAP. II.

cious deceits ſhew, that they are tied by none. Human ſocieties are maintained by mutual contracts, which are of no value if they are not obſerved. Laws are made, and magiſtrates created, to cauſe them to be performed in public and private matters, and to puniſh thoſe who violate them. But none will ever be obſerved, if he who receives the greateſt benefit by them, and is ſet up to overſee others, give the example to thoſe who of themſelves are too much inclined to break them. The firſt ſtep that Pompey made to his own ruin was, by violating the laws he himſelf had propoſed *. But it would be much worſe for kings to break thoſe that are eſtabliſhed by the authority of a whole people, and confirmed by the ſucceſſion of many ages.

I am far from laying any ſuch blemiſhes on them, or thinking that they deſerve them. I muſt believe the French king ſpeaks ſincerely when he ſays, he can do nothing againſt the laws of his country; and that our king James did the like, when he acknowledged himſelf to be the ſervant of the commonwealth; and the rather, becauſe it is true, and he was placed in the throne to that end. Nothing is more eſſential and fundamental in the conſtitutions of kingdoms, than that diets, parliaments, and aſſemblies of eſtates, ſhould ſee this performed. It is not the king that gives them a right to judge of matters of war or peace, to grant ſupplies of men and money, or to deny them; and to make or abrogate laws at their pleaſure: all the powers rightly belonging to kings, or to them, proceed from the ſame root. The northern nations ſeeing what miſchiefs were generally brought upon the eaſtern, by referring too much to the irregular will of a man, and what thoſe who were more generous had ſuffered, when one man by the force of a corrupt mercenary ſoldiery had overthrown the laws by which they lived, feared they might fall into the ſame miſery; and therefore retained the greater part of the power to be exerciſed by their general aſſemblies, or by delegates, when they grew ſo numerous that they could not meet. Theſe are the kingdoms of which Grotius ſpeaks, "where the king has his part, and the ſenate or people "their part of the ſupreme authority;" and where the law preſcribes ſuch limits, "that if the king attempt to ſeize that part which is not his, "he may juſtly be oppoſed †:" which is as much as to ſay, that the law upholds the power it gives, and turns againſt thoſe who abuſe it.

This doctrine may be diſpleaſing to court paraſites, but no leſs profitable to ſuch kings as follow better counſels, than to the nations that live under them. The wiſdom and virtue of the beſt is always fortified by the concurrence of thoſe who are placed in part of the power. They always do what they will, when they will nothing but that which is good; and it is a happy impotence in thoſe, who through ignorance or malice deſire to do evil, not to be able to effect it. The weakneſs of ſuch as by defects of nature, ſex, age, or education, are not able of themſelves to bear the weight of a kingdom, is thereby ſupported, and they, together with the people under them, preſerved from ruin; the furious raſhneſs of the inſo-

* Vide ſuprà, p. 226 † Vide ſuprà, p. 190

lent

lent is reſtrained; the extravagance of thoſe, who are naturally lewd, is SECT. 30
awed; and the beſtial madneſs of the moſt violently wicked and outrageous ſuppreſſed. When the law provides for theſe matters, and preſcribes ways by which they may be accompliſhed, every man who receives or fears an injury ſeeks a remedy in a legal way, and vents his paſſions in ſuch a manner, as brings no prejudice to the commonwealth. If his complaints againſt a king may be heard, and redreſſed by courts of juſtice, parliaments, and diets, as well as againſt private men, he is ſatisfied, and looks no farther for a remedy. But if kings, like thoſe of Iſrael, will neither judge nor be judged, and there be no power orderly to redreſs private or public injuries, every man has recourſe to force, as if he lived in a wood, where there is no law; and that force is generally mortal to thoſe who provoke it. No guards can preſerve a hated prince from the vengeance of one reſolute hand; and they as often fall by the ſwords of their own guards as of others. Wrongs will be done, and when they that do them cannot or will not be judged publicly, the injured perſons become judges in their own caſe, and executioners of their own ſentence. If this be dangerous in matters of private concernment, it is much more ſo in thoſe relating to the public. The lewd extravagances of Edward the ſecond, and Richard the ſecond, while they acknowledged the power of the law, were gently reproved and reſtrained with the removal of ſome profligate favourites; but, when they would admit of no other law than their own will, no relief could be had but by their depoſition. The lawful Spartan kings, who were obedient to the laws of their country, lived in ſafety, and died with glory. Whereas it was a ſtrange thing to ſee a lawleſs tyrant die without ſuch infamy and miſery, as held a juſt proportion with the wickedneſs of his life: they did, as Plutarch ſays of Dionyſius, many miſchiefs, and ſuffered more *. This is confirmed by the examples of the kingdom of Iſrael, and of the empires of Rome and Greece: they who would ſubmit to no law, were deſtroyed without any. I know not whether they thought themſelves to be gods, as our author ſays they were; but I am ſure the moſt part of them died like dogs, and had the burial of aſſes rather than of men.

This is the happineſs to which our author would promote them all. "If "a king admit a people to be his companions, he ceaſes to be a king, "and the ſtate becomes a democracy." And a little farther: "if in ſuch "aſſemblies, the king, nobility, and people, have equal ſhares in the "ſovereignty, then the king hath but one voice, the nobility likewiſe one, "and the people one; and then any two of theſe voices ſhould have "power to over-rule the third: thus the nobility and commons ſhould "have power to make a law to bind the king, which was never ſeen in "any kingdom." We have heard of nations, that admitted a man to reign over them, that is, made him king, but of no man that made a people. The Hebrews made Saul, David, Jeroboam, and other kings. When they returned from captivity, they conferred the ſame title upon

* Ἡ δ' επραξε τυραννων, οἷς επαθεν ὑπερβαλομενος. Plut. in vitâ Timol. p. 242.

CHAP. II the Aſmonean race, as a reward of their valour and virtue. The Romans choſe Romulus, Numa, Hoſtilius, and others, to be their kings: the Spartans inſtituted two, one of the Heraclidae, the other of the Aeacidae. Other nations ſet up one, a few, or more magiſtrates to govern them. All the world agrees, that "qui dat eſſe, dat modum eſſe:" he that makes him to be, makes him to be what he is; and nothing can be more abſurd than to ſay, that he who has nothing but what is given, can have more than is given to him. If Saul and Romulus had no other title to be kings, than what the people conferred upon them, they could be no otherwiſe kings, than as pleaſed the people: they therefore did not admit the people to be partakers of the government; but the people, who had all in themſelves, and could not have made a king, if they had not had it, beſtowed upon him what they thought fit, and retained the reſt in themſelves. If this were not ſo, then, inſtead of ſaying to the multitude, "will ye have "this man to reign?" they ought to have ſaid to the man, "wilt thou "have this multitude to be a people?" And whereas the nobles of Arragon uſed to ſay to their new-made king, "we who are as good as you, make "you our king, on condition you keep and maintain our rights and liber-"ties, and if not, not*;" he ſhould have ſaid to them, "I, who am "better than you, make you to be a people, and will govern you as I "pleaſe." But I doubt whether he would have ſucceeded, till that kingdom was joined to others of far greater ſtrength, from whence a power might be drawn to force them out of their uſual method.

That which has been ſaid of the governments of England, France, and other countries, ſhews them to be of the ſame nature. And if they do not deſerve the name of kingdoms, and their princes will by our author's arguments be perſuaded to leave them, thoſe nations perhaps will be ſo humble as to content themſelves without that magnificent title, rather than reſign their own liberties to purchaſe it: and, if this will not pleaſe him, he may ſeek his glorious ſovereign monarchy among the wild Arabs, or in the iſland of Ceylon; for it will not be found among civilized nations.

However, more ignorance cannot be expreſſed, than by giving the name of democracy to thoſe governments that are compoſed of the three ſimple ſpecies, as we have proved that all the good ones have ever been: for in a ſtrict ſenſe it can only ſuit with thoſe, where the people retain to themſelves the adminiſtration of the ſupreme power; and more largely, when the popular part, as in Athens, greatly over-balances the other two, and the denomination is taken from the prevailing part. But our author, if I miſtake not, is the firſt that ever took the antient governments of Iſrael, Sparta, and Rome, or thoſe of England, France, Germany, and Spain, to be democracies, only, becauſe every one of them had ſenates and aſſemblies of the people, who in their perſons, or by their deputies, did join with their chief magiſtrates in the exerciſe of the ſupreme power. That of Iſrael, to the time of Saul, is called by Joſephus an ariſtocracy†.

* Vide ſuprà, p. 80 † Vide ſuprà, p. 101, 104

The

The ſame name is given to that of Sparta by all the Greek authors. And SECT. 30
the great conteſt in the Peloponneſian war was between the two kinds of government: the cities that were governed ariſtocratically, or deſired to be ſo, following the Lacedemonians; and ſuch as delighted in democracy taking part with the Athenians. In like manner Rome, England, and France, were ſaid to be under monarchies: not that their kings might do what they pleaſed, but becauſe one man had a pre-eminence above any other. Yet if the Romans could take Romulus, the ſon of a man that was never known, Numa a Sabine, Hoſtilius and Ancus Martius, private men, and Tarquinius Priſcus the ſon of a baniſhed Corinthian, who had no title to a preference before others till it was beſtowed upon them, it is ridiculous to think, that they who gave them what they had, could not ſet what limits they pleaſed to their own gift.

But, ſays our author, "the nobility will then have one voice, and the "people another; and they joining may over-rule the third, which was "never ſeen in any kingdom." This may perhaps be one way of regulating the monarchical power; but it is not neceſſary, nor the only one. There may be a ſenate, though the people be excluded; that ſenate may be compoſed of men choſen for their virtue, as well as for the nobility of their birth; the government may conſiſt of king and people without a ſenate; or the ſenate may be compoſed only of the people's delegates. But, if I ſhould grant his aſſertion to be true, the reaſonableneſs of ſuch a conſtitution cannot be deſtroyed by the conſequences he endeavours to draw from it; for he who would inſtruct the world in matters of ſtate, muſt ſhew what is or ought to be, not what he fancies may thereupon enſue. Beſides, it does not follow, that where there are three equal votes, laws ſhould be always made by the plurality; for the conſent of all the three is in many places required. And it is certain, that in England, and other parts, the king and one of the eſtates cannot make a law without the concurrence of the other. But, to pleaſe Filmer, I will avow, that where the nobles and commons have an equal vote, they may join and over-rule or limit the power of the king; and I leave any reaſonable man to judge, whether it be more ſafe and fit, that thoſe two eſtates, comprehending the whole body of the nation in their perſons, or by repreſentation, ſhould have a right to over-rule or limit the power of that man, woman, or child, who fits in the throne; or that he or ſhe, young or old, wiſe or fooliſh, good or bad, ſhould over-rule them, and by their vices, weakneſs, folly, impertinence, incapacity, or malice, put a ſtop to their proceedings; and whether the chief concernments of a nation may more ſafely and prudently be made to depend upon the votes of ſo many eminent perſons, among whom many wiſe and good men will always be found, if there be any in the nation, and who in all reſpects have the ſame intereſts with them, or upon the will of one, who may be, and often is, as vile, ignorant, and wretched, as the meaneſt ſlave; and either has, or is for the moſt part made to believe he has, an intereſt ſo contrary to them, that their ſuppreſſion is his advancement. Common ſenſe ſo naturally leads us

CHAP. II to the deciſion of this queſtion, that I ſhould not think it poſſible for mankind to have miſtaken, though we had no examples of it in hiſtory. It is in vain to ſay, that all princes are not ſuch as I repreſent; for if a right were annexed to the being of a prince, and his ſingle judgment ſhould over-balance that of a whole nation, it muſt belong to him as a prince, and be enjoyed by the worſt and baſeſt, as well as by the wiſeſt and beſt, which would inevitably draw on the abſurdities above-mentioned. But that many are, and have been ſuch, no man can deny, or reaſonably hope, that they will not often prove to be ſuch, as long as any preference is granted to thoſe who have nothing to recommend them, but the families from whence they are deſcended: a continual ſucceſſion of thoſe who excel in virtue, wiſdom, and experience, being promiſed to none, nor reaſonably to be expected from any. Such a right therefore cannot be claimed by all; and if not by all, then not by any, unleſs it proceed from a particular grant in conſideration of perſonal virtue, ability, and integrity, which muſt be proved: and when any one goes about to do it, I will either acknowledge him to be in the right, or give the reaſons of my denial.

However this is nothing to the general propoſition. Nay, if a man were to be found, who had more of the qualities required for making a right judgment in matters of the greateſt importance, than a whole nation, or an aſſembly of the beſt men choſen out of it (which I have never heard to have been, unleſs in the perſons of Moſes, Joſhua, or Samuel, who had the Spirit of God for their guide) it would be nothing to our purpoſe; for even he might be biaſſed by his perſonal intereſts, which governments are not eſtabliſhed to promote.

I may go a ſtep farther, and truly ſay, that as ſuch vaſt powers cannot be generally granted to all who happen to ſucceed in any families, without evident danger of utter deſtruction, when they come to be executed by children, women, fools, vicious, incapable, or wicked perſons, they can be reaſonably granted to none, becauſe no man knows what any one will prove till he be tried; and the importance of the affair requires ſuch a trial as can be made of no man till he be dead. He that reſiſts one temptation may fall under the power of another; and nothing is more common in the world, than to ſee thoſe men fail groſsly in the laſt actions of their lives, who had paſſed their former days without reproach. Wiſe and good men will with Moſes ſay of themſelves, "I cannot bear the burden;" and every man who is concerned for the public good, ought to let fools know, they are not fit to undergo it, and by law to reſtrain the fury of ſuch as will not be guided by reaſon. This could not be denied, though governments were conſtituted for the good of the governor. It is good for him that the law appoints helps for his infirmities, and reſtrains his vices: but all nations ought to do it though it were not ſo, inaſmuch as kingdoms are not eſtabliſhed for the good of one man, but of the people; and that king, who ſeeks his own good before that of the people, departs from the end of his inſtitution.

This

This is ſo plain, that all nations who have acted freely have ſome way or other endeavoured to ſupply the defects, or reſtrain the vices of their ſupreme magiſtrates; and thoſe among them deſerve moſt praiſe, who, by appointing means adequate to ſo great a work, have taken care that it might be eaſily and ſafely accompliſhed. Such nations have always flouriſhed in virtue, power, glory, and happineſs, while thoſe who wanted their wiſdom have ſuffered all manner of calamities by the weakneſs and injuſtice of their princes, or have had their hands perpetually in blood to preſerve themſelves from their fury. We need no better example of the firſt, than that of the Spartans, who, by appointing ſuch limits to the power of their kings as could hardly be tranſgreſſed, continued many ages in great union with them, and were never troubled with civil tumults. The like may be ſaid of the Romans, from the expulſion of the Tarquins, till they overthrew their own orders, by continuing Marius for five years in the conſulate, whereas the laws did not permit a man to hold the ſame office two years together; and when that rule was broken, their own magiſtrates grew too ſtrong for them, and ſubverted the commonwealth. When this was done, and the power came into the hands of one man, all manner of evils and calamities broke in like a flood. It is hard to judge, whether the miſchiefs he did, or thoſe he ſuffered, were the greater. He, who ſet up himſelf to be lord of the world, was like to a beaſt crowned for the ſlaughter, and his greatneſs was the forerunner of his ruin. By this means ſome of thoſe, who ſeem not to have been naturally prone to evil, were by their fears put upon ſuch courſes to preſerve themſelves, as being rightly eſtimated, were worſe than the death they apprehended. The ſo much celebrated Conſtantine the Great died no leſs polluted with the blood of his neareſt relations and friends, than Nero himſelf. But no place can ſhew a more lively picture of this, than the kingdoms of Granada, and others poſſeſſed by the Moors in Spain; where, there being neither ſenate, nor aſſemblies of the nobility and people, to reſtrain the violence and fury of their kings, they had no other way than to kill them, when their vices became inſupportable; which happening for the moſt part, they were almoſt all murdered: and things were brought to ſuch an extremity, that no man would accept a crown, except he who had neither birth nor virtue to deſerve it *. SECT. 30

If it be ſaid, that kings have now found out more eaſy ways of doing what they pleaſe, and ſecuring themſelves, I anſwer, that they have not proved ſo to all, and it is not yet time for ſuch as tread in the ſame ſteps to boaſt of their ſucceſs. Many have fallen when they thought their deſigns accompliſhed; and no man, as long as he lives, can reaſonably aſſure himſelf the like ſhall not befal him. But if in this corrupted age, the treachery and perjury of princes be more common than formerly, and the number of thoſe, who are brought to delight in the rewards of injuſtice, be ſo increaſed, that their parties are ſtronger than formerly, this rather

* Mariana de Reb. Hiſpanicis.

ſhews,

CHAP. II ſhews, that the balance of power is broken, or hard to be kept up, than that there ought to be none; and it is difficult for any man, without the ſpirit of prophecy, to tell what this will produce. While the ancient conſtitutions of our northern kingdoms remained entire, ſuch as conteſted with their princes ſought only to reform the governments, and by redreſſing what was amiſs, to reduce them to their firſt principles; but they may not perhaps be ſo modeſt, when they ſee the very nature of their government changed, and the foundations overthrown. I am not ſure that they, who were well pleaſed with a moderate monarchy, will ſubmit to one that is abſolute; and it is not improbable, but that when men ſee there is no medium between tyranny and popularity, they who would have been contented with the reformation of their government may proceed farther, and have recourſe to force, when there is no help in the law. This will be a hard work in thoſe places where virtue is wholly aboliſhed; but the difficulty will lie on the other ſide, if any ſparks of that remain. If vice and corruption prevail, liberty cannot ſubſiſt; but if virtue have the advantage, arbitrary power cannot be eſtabliſhed. Thoſe who boaſt of their loyalty, and think they give teſtimonies of it, when they addict themſelves to the will of one man, though contrary to the law from whence that quality is derived, may conſider, that by putting their maſters upon illegal courſes they certainly make them the worſt of men, and bring them into danger of being alſo the moſt miſerable. Few or no good princes have fallen into diſaſters, unleſs through an extremity of corruption introduced by the moſt wicked; and cannot properly be called unhappy, if they periſhed in their innocence; ſince the bitterneſs of death is aſſwaged by the tears of a loving people, the aſſurance of a glorious memory, and the quiet of a well ſatisfied mind. But of thoſe who have abandoned themſelves to all manner of vice, followed the impulſe of their own fury, and ſet themſelves to deſtroy the beſt men for oppoſing their pernicious deſigns, very few have died in peace. Their lives have been miſerable, death infamous, and memory deteſtable.

They therefore who place kings within the power of the law, and the law to be a guide to kings, equally provide for the good of king and people. Whereas they who admit of no participants in power, and acknowlege no rule but their own will, ſet up an intereſt in themſelves againſt that of their people, loſe their affections, which is their moſt important treaſure, and incur their hatred, from whence reſults their greateſt danger.

SECTION XXXI

THE LIBERTIES OF NATIONS ARE FROM GOD AND NATURE, NOT FROM KINGS.

Whatever is uſually ſaid in oppoſition to this ſeems to proceed from a groundleſs conceit, that the liberties enjoyed by nations ariſe from the conceſſions of princes. This point has been already treated: but being the foundation of the doctrine I oppoſe, it may not be amiſs farther to examine, how it can be poſſible for one man, born under the ſame condition with the reſt of mankind, to have a right in himſelf that is not common to all others, till it be by them, or a certain number of them, conferred upon him; or how he can, without the utmoſt abſurdity, be ſaid to grant liberties and privileges to them who made him to be what he is.

If I had to do with a man that ſought after truth, I ſhould think he had been led into this extravagant opinion by the terms ordinarily uſed in patents and charters granted to particular men; and not diſtinguiſhing between the proprietor and the diſpenſer, might think kings had given, as their own, that which they only diſtribute out of the public treaſury, and could have had nothing to diſtribute by parcels, if it had not been given to them in groſs by the public. But I need not uſe our author ſo gently. The perverſity of his judgment, and obſtinate hatred to truth, is ſufficient to draw him into the moſt abſurd errors without any other inducement; and it were not charity, but folly, to think otherwiſe of one who attributes in general to all princes, without any regard to the ways by which they attain to their power, ſuch an authority as never juſtly belonged to any.

This will be evident to all thoſe who conſider, that no man can confer upon others that which he has not in himſelf: if he be originally no more than they, he cannot grant to them, or any of them, more than they to him. In the 7th, 8th, 9th, and ſubſequent ſections of the firſt chapter, it has been proved, that there is no reſemblance between the paternal right, and the abſolute power, which he aſſerts in kings; that the right of a father, whatever it be, is only over his children; that this right is equally inherited by them all when he dies; that every one cannot inherit dominion, for the right of one would be inconſiſtent with that of all others; that the right which is common to all is that which we call liberty, or exemption from dominion; that the firſt fathers of mankind after the flood had not the exerciſe of regal power, and whatever they had was equally devolved to every one of their ſons, as appears by the examples of Noah, Shem, Abraham, Iſaac, Jacob, and their children; that the erection of Nimrod's kingdom was directly contrary to, and inconſiſtent with the paternal right, if there was any regality in it; that the other kingdoms of that time were of the ſame nature; that Nimrod, not exceeding the age of threeſcore years when he built Babel, could not be the

CHAP. II father of thoſe that aſſiſted him in that attempt; that if the ſeventy two kings, who, as our author ſays, went from Babylon upon the confuſion of languages, were not the ſons of Nimrod, he could not govern them by the right of a father; if they were, they muſt have been very young, and could not have children of their own to people the kingdoms they ſet up; that whoſe children ſoever they were, who out of a part of mankind did, within a hundred and thirty two years after the flood, divide into ſo many kingdoms, they ſhewed that others in proceſs of time might ſubdivide into as many as they pleaſed; and kingdoms multiplying in the ſpace of four thouſand years ſince the ſeventy two, in the ſame proportion they did in one hundred and thirty two years into ſeventy two, there would now be as many kings in the world as there are men; that is, no man could be ſubject to another; that this equality of right, and exemption from the domination of any other, is called liberty; that he, who enjoys it, cannot be deprived of it, unleſs by his own conſent, or by force; that no one man can force a multitude; or, if he did, it could confer no right upon him; that a multitude, conſenting to be governed by one man, confers upon him the power of governing them: the powers therefore that he has, are from them; and they who have all in themſelves can receive nothing from him, who has no more than every one of them, till they do inveſt him with it. This is proved by ſacred and profane hiſtories. The Hebrews in the creation of judges, kings, or other magiſtrates, had no regard to paternity, or to any who by extraction could in the leaſt pretend to the right of fathers: God did never direct them to do it, nor reprove them for neglecting it. If they would chooſe a king, he commanded them to take one of their brethren, not one who called himſelf their father. When they did reſolve to have one, he commanded them to chooſe him by lot, and cauſed the lot to fall upon a young man of the youngeſt tribe. David, and the other kings of Iſrael or Judah, had no more to ſay for themſelves in that point than Saul. All the kings of that nation before and after the captivity, ordinarily or extraordinarily ſet up, juſtly or unjuſtly, were raiſed without regard to any prerogative they could claim or arrogate to themſelves on that account. All that they had therefore was from their elevation, and their elevation from thoſe that elevated them. It was impoſſible for them to confer any thing upon thoſe from whom they received all they had; or for the people to give power to kings, if they had not had it in themſelves: which power, univerſally reſiding in every one, is that which we call liberty. The method of other nations was much like to this. They placed thoſe on the throne who ſeemed beſt to deſerve ſo great an honour, and moſt able to bear ſo great a burden. The kingdoms of the heroes were nothing elſe but the government of thoſe, who were moſt beneficent to the nations among whom they lived, and whoſe virtues were thought fit to be raiſed above the ordinary level of the world. Though perhaps there was not any one Athenian or Roman equal to Theſeus or Romulus in courage and ſtrength, yet they were not able to ſubdue many. Or if any man ſhould be ſo vain as to think,

think, that each of them did at firſt ſubdue one man, then two, and ſo proceeding by degrees conquered a whole people, he cannot without madneſs aſcribe the ſame to Numa, who, being ſent for from a foreign country, was immediately made king of a fierce people, that had already conquered many of their neighbours, and was grown too boiſterous even for Romulus himſelf. The like may be ſaid of the firſt Tarquin, and of Servius: they were ſtrangers. And though Tullus Hoſtilius and Ancus Martius were Romans, they had as little title to a dominion over their fellow-citizens, or means of attaining to it, as if they had come from the fartheſt parts of the earth. This muſt be in all places, unleſs one man could prove by a perfect and uninterrupted genealogy, that he is the eldeſt ſon of the eldeſt line of Noah, and that the ſame line has continued perpetually in the government of the world: for if the power has been divided, it may be ſubdivided to infinity; if interrupted, the chain is broken, and can never be made whole. But if our author can perform this for the ſervice of any man, I willingly ſurrender my arms, and yield up the cauſe I defend. If he fail, it is ridiculous to pretend a right that belongs to no man, or to go about to retrieve a right, which for the ſpace of four thouſand years has lain dormant; and much more to create that which never had a ſubſiſtence. This leads us neceſſarily to a concluſion, that all kingdoms are at the firſt erected by the conſent of nations, and given to whom they pleaſe; or elſe all are ſet up by force, or ſome by force, and ſome by conſent. If any are ſet up by the conſent of nations, their kings do not confer liberties upon thoſe nations, but receive all from them, and the general propoſition is falſe. If our author therefore, or his followers, would confute me, they muſt prove, that all the kingdoms of the world have their beginning from force, and that force does always create a right. Or, if they recede from the general propoſition, and attribute a peculiar right to one or more princes, who are ſo abſolute lords of their people, that thoſe under them have neither liberty, privilege, property, or part, in the government, but by their conceſſions, they muſt prove, that thoſe princes did by force gain the power they have, and that their right is derived from it. This force alſo muſt have been perpetually continued; for if that force be the root of the right that is pretended, another force, by the ſame rule, may overturn, extinguiſh, or transfer it to another hand. If contracts have intervened, the force ceaſes; and the right that afterwards accrues to the perſons, muſt proceed from, and be regulated according to thoſe contracts. SECT. 31

This may be ſufficient to my purpoſe. For as it has been already proved, that the kingdoms of Iſrael, Judah, Rome, Sparta, France, Spain, England, and all that we are concerned in, or that deſerve to be examples to us, did ariſe from the conſent of the reſpective nations, and were frequently reduced to their firſt principles, when the princes endeavoured to tranſgreſs the laws of their inſtitution, it could be nothing to us, though Attila or Tamerlane had by force gained the dominions they poſſeſſed. But I dare go a ſtep farther, and boldly aſſert, that there never was, nor

CHAP. II can be, a man in the world, that did or can ſubdue a nation; and that the right of one grounded upon force is a mere whimſy. It was not Agathocles, Dionyſius, Nabis, Marius, Sylla, or Caeſar, but the mercenary ſoldiers, and other villains that joined with them, who ſubdued the Syracuſans, Spartans, or Romans. And as the work was not performed by thoſe tyrants alone, if a right had been gained by the violence they uſed, it muſt have been common to all thoſe that gained it; and he that commanded them could have had no more than they thought fit to confer upon him. When Miltiades deſired leave to wear an olive garland, in commemoration of the victory obtained at Marathon, an Athenian did in my opinion rightly ſay: "If you alone did fight againſt the Perſians, it were "juſt that you only ſhould be crowned; but if others did participate in the "victory, they ought alſo to have a part in the honour *." And the principal difference that I have obſerved between the moſt regular proceedings of the wiſeſt ſenates or aſſemblies of the people in their perſons or delegates, and the fury of the moſt diſſolute villains, has been, that the firſt ſeeking the public good do uſually ſet up ſuch a man, and inveſt him with ſuch powers as ſeem moſt conducing to that good. Whereas the others, following the impulſe of a beſtial rage, and aiming at nothing but the ſatisfaction of their own luſts, always advance one from whom they expect the greateſt advantages to themſelves, and give him ſuch powers as moſt conduce to the accompliſhment of their own ends: but as to the perſon it is the ſame thing. Caeſar and Nero did no more make themſelves what they were, than Numa; and could no more confer any right, liberty, or privilege upon the army, that gave them all they had, than the moſt regular magiſtrate could upon the ſenate or people that choſe them.

This alſo is common to the worſt as well as the beſt, that they who ſet up either, do, as into a public treaſury, confer upon the perſon they chooſe, a power of diſtributing to particular men, or numbers of men, ſuch honours, privileges, and advantages, as they may ſeem, according to the principles of the government, to deſerve. But there is this difference, that the ends of the one being good, and thoſe of the other evil, the firſt do, for the moſt part, limit the powers, that ſomething may remain to reward ſervices done to the public, in a manner proportioned to the merit of every one, placing other magiſtrates to ſee it really performed, ſo that they may not, by the weakneſs or vices of the governor, be turned to the public detriment. The others think they never give enough, that the prince, having all in his power, may be able to gratify their moſt exorbitant deſires, if by any ways they can get his favour; and his infirmities and vices being moſt beneficial to them, they ſeldom allow to any other magiſtrate a power of oppoſing his will, or ſuffer thoſe who for the public good would aſſume it. The world affords many examples of both ſorts, and every one of them have had their progreſs ſuitable to their conſtitution. The regular kingdoms of England, France,

* Ὅταν γαρ, ἐφη, μονος ἀγωνισαμενος, ω Μιλτιαδη, νικησης τους βαρβαρους, τοτε και τιμασθαι μονος ἀξιου. Plut. in vitâ Cimonis, p. 483.

Spain,

Spain, Poland, Bohemia, Denmark, Sweden, and others, whether elective or hereditary, have had high ſtewards, conſtables, mayors of the palace, reichs-hofmeiſters, parliaments, diets, aſſemblies of eſtates, cortes, and the like, by which thoſe have been admitted to ſucceed who ſeemed moſt fit for the public ſervice; the unworthy have been rejected; the infirmities of the weak ſupplied; the malice of the unjuſt reſtrained; and when neceſſity required, the crown transferred from one line or family to another. But in the furious tyrannies that have been ſet up by the violence of a corrupted ſoldiery, as in the antient Roman empire, the kingdoms of the Moors and Arabians, the tyrannies of Ezzelino of Padua, thoſe of the Viſconti and Sforzi of Milan, Caſtruccio Caſtracani of Lucca, Caeſar Borgia, and others, there was nothing of all this. The will of the prince was a law; all power was in him, and he kept it, till another ſtept up and took it from him, by the ſame means that he had gained it. This fell out ſo frequently, that though all the Roman emperors endeavoured to make their power hereditary, it hardly continued three generations in one line from Auguſtus to Auguſtulus, unleſs in that of Conſtantine, and that with extreme confuſion and diſorder. They who had madly ſet up a man to be their head, and expoſed ſo much of the world as was under their power, to be deſtroyed by him, did by the like fury throw him down, and never ceaſed till they had brought the empire to utter ruin. SECT. 31

But if this paternal ſovereignty be a mere fiction, that never had any effect, and no nation was ever commanded by God to make it their rule, nor any reproved for the neglect of it, none ever learned it from the light of nature, nor were by wiſe men taught to regard it; if the firſt fathers claimed no privilege from it, when every man's genealogy was known, and though there were ſuch a thing in nature, it could be of no uſe at this day, when the ſeveral races of men are ſo confuſed, that not one in the world can prove his own original; if the firſt kingdoms, whether well or ill conſtituted, according to the command of God, or the inventions of men, were contrary to, and incompatible with it, and there can have been no juſtice in any, if ſuch a rule was to have been obſerved, the continuance of an unjuſt uſurpation can never have created a right, but aggravated the injuſtice of overthrowing it; if no man could ever by his own ſtrength and courage ſubdue a multitude, nor gain any other right over them, if he did, than they might have to tear it from him, whoever denies kingdoms, and other magiſtracies, to have been ſet up by men, according to their own will, and from an opinion of receiving benefit by them, accuſes all the governments that are, or ever have been, in the world, of that outrageous injuſtice in their foundation, which can never be repaired. If there be therefore, or ever was, any juſt government amongſt men, it was conſtituted by them; and whether their proceedings were regular or violent, juſt or unjuſt, the powers annexed to it were their donation; the magiſtracies erected by them, whether in one or more men, temporary or perpetual, elective or hereditary, were their creatures, and receiving all from them, could confer nothing upon them.

SECTION XXXII

THE CONTRACTS MADE BETWEEN MAGISTRATES AND THE NATIONS THAT CREATED THEM WERE REAL, SOLEMN, AND OBLIGATORY.

Our author, having with big words, and little ſenſe, inveighed againſt popular and mixed governments, proceeds as if he had proved they could not, or ought not to be. "If it be," ſays he, "unnatural for the "multitude to chooſe their governors, or to govern, or to partake in the "government, what can be thought of that damnable concluſion which "is made by too many, that the multitude may correct or depoſe their "princes if need be? Surely the unnaturalneſs and injuſtice of this poſi-"tion cannot ſufficiently be expreſſed. For admit that a king make a "contract or paction with his people either originally in his anceſtors, or "perſonally at his coronation (for both theſe pactions ſome dream of, but "cannot offer any proof of either) yet by no law of any nation can a "contract be thought broken, except firſt a lawful trial be had by the "ordinary judge of the breakers thereof; or elſe, every man may be both "party and judge in his own caſe, which is abſurd once to be thought; "for then it will lie in the hands of the headleſs multitude, when they "pleaſe to caſt off the yoke of government that God has laid upon them, "to judge and puniſh him, by whom they ſhould be judged and puniſhed "themſelves." To this I anſwer firſt briefly, that if it be natural for the multitude to chooſe their governors, or to govern, or to participate of the government as beſt pleaſes themſelves, or if there never was a govern-ment in the world that was not ſo ſet up by them, in purſuance of the power naturally inherent in themſelves, what can be thought of that damnable concluſion, which has been made by fools or knaves, that the multitude may not, if need be, correct or depoſe their own magiſtrates? Surely the unnaturalneſs and injuſtice of ſuch a poſition cannot be ſuffici-ently expreſſed. If that were admitted, all the moſt ſolemn pacts and contracts made between nations and their magiſtrates, originally or per-ſonally, and confirmed by laws and mutual oaths, would be of no value; he that would break the moſt ſacred bonds, that can be among men, ſhould by perjury and wickedneſs become judge of his own caſe, and by the worſt of crimes procure impunity for all; it would be in his power by folly, wickedneſs, and madneſs, to deſtroy the multitude, which he was created and ſworn to preſerve, though wiſe, virtuous, and juſt, and headed by the wiſeſt and juſteſt of men, or to lay a yoke upon thoſe who by the laws of God and nature ought to be free; he might in his own caſe judge that body by which he ought to be judged, and who in conſi-deration of themſelves, and their own good, made him to be whatever he is more than every one of them; the governments inſtituted for the pre-ſervation of nations would turn to their deſtruction; it would be impoſſible

to

to check the fury of a corrupt and perfidious magiſtrate; the worſt of men would be raiſed to a height, that was never deſerved by the beſt; and the aſſurance of indemnity would, by increaſing their inſolence, turn their other vices into madneſs, as has been too often ſeen in thoſe, who have had more power than they deſerved, and were more hardly brought to account for their actions than ought to have been; though I never heard of any who had ſo much as our author aſſerts to be in all, or that any was abſolutely aſſured he ſhould not be queſtioned for the abuſe of what he had. SECT. 32

Beſides, if every people may govern, or conſtitute and chooſe one or more governors, they may divide the powers between ſeveral men, or ranks of men, allotting to every one ſo much as they pleaſe, or retaining ſo much as they think fit. This has been practiſed in all the governments, which under ſeveral forms have flouriſhed in Paleſtine, Greece, Italy, Germany, France, England, and the reſt of the world. The laws of every place ſhew what the power of the reſpective magiſtrate is, and, by declaring how much is allowed to him, declare what is denied; for he has not that which he has not; and is to be accounted a magiſtrate whilſt he exerciſes that which he has.

If any doubts do hereupon ariſe, I hope to remove them, proving, in the firſt place, that ſeveral nations have plainly and explicitly made contracts with their magiſtrates.

2. That they are implicit, and to be underſtood, where they are not plainly expreſſed.

3. That they are not dreams, but real things, and perpetually obliging.

4. That judges are in many places appointed to decide the conteſts ariſing from the breach of theſe contracts; and where they are not, or the party offending is of ſuch force or pride, that he will not ſubmit, nations have been obliged to take the extremeſt courſes.

1. I ſuppoſe it will not be denied, that the annual magiſtrates of divers commonwealths are under ſome compact, and that there is a power of conſtraining them to perform the contents, or to puniſh them for the violation. The modeſt behaviour of the Roman conſuls and dictators, as long as their laws were in force, might not probably proceed from their good-nature. Though the people had not been, as our author ſays, "mad, "fooliſh, and always deſirous to chooſe the worſt men for being moſt "like to themſelves," but admirably wiſe and virtuous, it is not to be imagined, that in the ſpace of three or four hundred years they ſhould never have fallen upon one who would have tranſgreſſed, if he could have done it ſafely, though they had uſed the utmoſt caution in their choice. But the power of the conſuls being only for a year, that of the dictator for ſix months at moſt, and the commiſſion, that they ſhould take care the commonwealth might ſuffer no damage *, ſhews the end and condition upon which they were choſen; and though their power is by ſome

* Ne quid reſpublica detrimenti caperet. Liv. l. 3, c. 4.

thought

CHAP. II thought to have been abſolute, yet the conſuls were frequently oppoſed, and brought into order by the ſenate, tribunes, or people, and ſometimes the dictator himſelf. Camillus in his fourth dictatorſhip was threatened by the tribunes with a great fine, and by that means obliged to abdicate his magiſtracy *. I have already mentioned Marcus Fabius, who, in the behalf of his ſon Quintus condemned to die by Papirius the dictator, appealed to the people †. And when the conduct of Fabius Maximus, in the war againſt Hannibal, was not approved, Metellus the tribune thought he made a very modeſt propoſition, in that he did not deſire his magiſtracy ſhould be abrogated; but that the maſter of the horſe ſhould be made equal to him in power ‡: which was done accordingly. It is agreed by all, that the conſuls were in the place of kings, and that the power of the dictator was at the leaſt equal to what theirs had been. If they therefore were under ſuch a rule, which they could not tranſgreſs, or might be reduced to order if they did, and forced to ſubmit to the people as the kings had done, the kings were alſo made upon the ſame conditions, and equally obliged to perform them.

The Scripture is more clear in the caſe. The judges are ſaid to have been in power equal to kings; and I may perhaps acknowledge it, with relation to the deuteronomical king, or ſuch as the people might have choſen without offending God. The Gileadites made a covenant with Jephthah that he ſhould be their head and captain; and he would not return to his country till they had done it. This was performed ſolemnly before the Lord in Miſpeh; and all Iſrael followed them. They might therefore make a covenant with their kings, for the difference of name does not increaſe or diminiſh the right. Nay, they were in duty obliged to do it: the words of the xvii of Deuteronomy, "he ſhall not multiply "wives, etc. that his heart be not lifted up above his brethren," can have no other ſignification, than that they ſhould take care he did it not, or, as Joſephus ſays, hinder him if he attempt it; for the law was not given to the king who was not, but to thoſe who might make him if they thought fit. In purſuance of this law———

[The reſt of this chapter is wanting in the original manuſcript.]

* Plut. in vitâ Camil. p. 149, 150. Edit. Par. 1624.

† Provoco ad populum, qui certè unus plus quàm tua dictatura poteſt polletque. *Liv.* l. 8, c. 33. Vide ſuprà, p. 125.

‡ Si antiquus animus plebi Romanae eſſet, audacter ſe laturum fuiſſe de abrogando Q. Fabii imperio; nunc modicam rogationem promulgaturum de aequando magiſtri equitum, et dictatoris jure. Metelli orat. Liv. l. 22, c. 25, 26. Vide ſuprà, p. 125.

CHAPTER III. SECTION I

KINGS, NOT BEING FATHERS OF THEIR PEOPLE, NOR EXCELLING ALL OTHERS IN VIRTUE, CAN HAVE NO OTHER JUST POWER THAN WHAT THE LAWS GIVE; NOR ANY TITLE TO THE PRIVILEGES OF THE LORD'S ANOINTED.

Having proved, that the right of fathers is from nature, and incommunicable, it muſt follow, that every man perpetually owes all love, reſpect, ſervice, and obedience, to him that did beget, nouriſh, and educate him, and to no other under that name. No man therefore can claim the right of a father over any, except one that is ſo. No man can ſerve two maſters: the extent and perpetuity of the duty which every man owes to his father, renders it impoſſible for him to owe the ſame to any other. This right of father cannot be devolved to the heir of the father, otherwiſe than as every ſon by the law of nature is heir to his father, and has the ſame right of commanding his children, as his father had of commanding him when he was a child. No man can owe to his brother that which he owed to his father, becauſe he cannot receive that from him which he had from his father. But the utmoſt of all abſurdities that can enter into the heart of man is, for one to exact the rights due to a father, who has no other title than force and uſurpation, it being no leſs than to ſay, that I owe as much to one who has done me the greateſt of all injuries, as to him who has conferred upon me the greateſt benefits: or, which is yet worſe, if poſſible, that as theſe uſurpations cannot be made but by robbing, ſpoiling, impriſoning, or killing, the perſon in poſſeſſion, that duty, which by the eternal law of nature I owe to my father, ſhould oblige me to pay the ſame veneration, obedience, and ſervice, to the man that has ſpoiled, impriſoned, or killed my father, as I owed to him; or that the ſame law, which obliged me to obey and defend my father, becauſe he was ſo, ſhould oblige me to obey and defend his enemy, becauſe he has impriſoned or killed him; and not only to paſs over the law of God, which makes me the avenger of my father's blood, but to reward his murderer with the rights that comprehend all that is moſt tender and ſacred in nature, and to look upon one that has done me the greateſt of all injuſtices and injuries, as upon him to whom I owe my birth and education. This being evident to all thoſe who have any meaſure of common ſenſe, I ſuppoſe it may be ſafely concluded, that what right ſoever a father may have over his family, it cannot relate to that which a king has over his people; unleſs he, like the man in the iſland of Pines, mentioned before, be alſo the father of them all. That which is abſolutely unlike in manner and ſubſtance, inſtitution and exerciſe, muſt be unlike in all reſpects; and the concluſions, which have their ſtrength from ſimilitude and parity, can have none when there is not the leaſt

ſimilitude.

CHAP. III similitude of either. And though it were true, that fathers are held by no contracts (which generally it is not: for when the ſon is of age, and does ſomething for the father to which he is not obliged, or gives him that which he is not bound to give, ſuppoſe an inheritance received from a friend, goods of his own acquiſition, or that he be emancipated, all good laws look upon thoſe things as a valuable conſideration, and give the ſame force to contracts thereupon made, as to thoſe that paſs between ſtrangers) it could have no relation to our queſtion concerning kings. One principal reaſon, that renders it very little neceſſary, by the laws of nations, to reſtrain the power of parents over their children, is, becauſe it is preſumed they cannot abuſe it. They are thought to have a law in their bowels, obliging them more ſtrictly to ſeek their good, than all thoſe that can be laid upon them by another power; and yet if they depart from it, ſo as inhumanly to abuſe or kill their children, they are puniſhed with as much rigour, and accounted more unpardonable than other men. Ignorance or wilful malice perſuading our author to paſs over all this, he boldly affirms, "that the father of a family governs it by no other law "than his own will;" and from thence infers, that the condition of kings is the ſame. He would ſeem to ſoften the harſhneſs of this propoſition by ſaying, "that a king is always tied by the ſame law of nature to "keep this general ground, that the ſafety of the kingdom be his chief "law." But he ſpoils it in the next page, by aſſerting, "that it is not "right for kings to do injury; but it is right, that they go unpuniſhed "by the people, if they do: ſo that in this point it is all one, whether "Samuel deſcribe a king or a tyrant; for patient obedience is due to both; "no remedy in the text againſt tyrants, but crying and praying unto "God in that day." In this our author, according to the cuſtom of theatres, runs round in a circle, pretends to grant that which is true, and then by a lye endeavours to deſtroy all again. Kings by the law of nature are obliged to ſeek chiefly the good of the kingdom; but there is no remedy, if they do it not; which is no leſs than to put all upon the conſcience of thoſe who manifeſtly have none. But if God has appointed, that all other tranſgreſſions of the laws of nature, by which a private man receives damage, ſhould be puniſhed in this world, notwithſtanding the right reſerved to himſelf of a future puniſhment, I deſire to know, why this alone, by which whole nations may be, and often are deſtroyed, ſhould eſcape the hands of juſtice? If he preſume no law to be neceſſary in this caſe, becauſe it cannot be thought, that kings will tranſgreſs, as there was no law in Sparta againſt adultery, becauſe it was not thought poſſible for men educated under that diſcipline to be guilty of ſuch a crime; and as divers nations left a liberty to fathers to diſpoſe of their children as they thought fit, becauſe it could not be imagined, that any one would abuſe that power, he ought to remember, that the Spartans were miſtaken, and for want of that law, which they eſteemed uſeleſs, adulteries became as common there as in any part of the world. And the other error being almoſt every where diſcovered, the laws of all civilized

nations

nations make it capital for a man to kill his children; and give redreſs to children, if they ſuffer any other extreme injuries from their parents, as well as other perſons. But though this were not ſo, it would be nothing to our queſtion, unleſs it could be ſuppoſed, that whoever gets the power of a nation into his hands, muſt be immediately filled with the ſame tenderneſs of affection to the people under him, as a father naturally has towards the children he has begotten. He that is of this opinion may examine the lives of Herod, Tiberius, Caligula, and ſome later princes of like inclinations, and conclude it to be true, if he find, that the whole courſe of their actions, in relation to the people under them, do well ſuit with the tender and ſacred name of father; and altogether falſe, if he find the contrary. But ſince every man that conſiders what has been, or ſees what is every day done in the world, muſt confeſs, that princes, or thoſe who govern them, do moſt frequently ſo utterly reject all thoughts of tenderneſs and piety towards the nations under them, as rather to ſeek what can be drawn from them, than what ſhould be done for them, and ſometimes become their moſt bitter and public enemies, it is ridiculous to make the ſafety of nations to depend upon a ſuppoſition, which by daily experience we find to be falſe; and impious, to prefer the luſts of a man, who violates the moſt ſacred laws of nature, by deſtroying thoſe he is obliged to preſerve, before the welfare of that people, for whoſe good he is made to be what he is, if there be any thing of juſtice in the power he exerciſes. SECT. I

Our author fooliſhly thinks to cover the enormity of this nonſenſe, by turning "ſalutem populi" into "ſalutem regni:" for though "regnum" may be taken for the power of commanding, in which ſenſe the preſervation of it is the uſual object of the care of princes, yet it does more rightly ſignify the body of that nation, which is governed by a king. And therefore if the maxim be true, as he acknowledges it to be, then "ſalus populi eſt lex ſuprema*;" and the firſt thing we are to inquire is, whether the government of this or that man do conduce to the accompliſhment of that ſupreme law, or not; for otherwiſe it ought to have been ſaid, "ſalus regis eſt lex ſuprema," which certainly never entered into the head of a wiſer or better man than Filmer.

His reaſons are as good as his doctrine: no law, ſays he, can be impoſed on kings, "becauſe there were kings, before any laws were made." This would not follow, though the propoſition were true; for they, who impoſed no laws upon the kings they at firſt made, from an opinion of their virtue, as in thoſe called by the antients "heroum regna," might lay reſtrictions upon them, when they were found not to anſwer the expectation conceived of them, or when their ſucceſſors degenerated from their virtue. Other nations alſo, being inſtructed by the ill effects of an unlimited power given to ſome kings, if there was any ſuch, might wiſely avoid the rock upon which their neighbours had ſplit, and juſtly moderate

* Salus populi ſuprema lex eſto. Cic. de Leg. l. 1, c. 3

CHAP. III that power, which had been pernicious to others. However, a propoſition of ſo great importance ought to be proved; but that being hard, and perhaps impoſſible, becauſe the original of nations is almoſt wholly unknown to us, and their practice ſeems to have been ſo various, that what is true in one is not ſo in another, he is pleaſed only to affirm it, without giving the leaſt ſhadow of a reaſon to perſuade us to believe him. This might juſtify me, if I ſhould reject his aſſertion as a thing ſaid gratis: but I may ſafely go a ſtep farther, and affirm, that men lived under laws before there were any kings; which cannot be denied, if ſuch a power neceſſarily belongs to kings as he aſcribes to them. For Nimrod, who eſtabliſhed his kingdom in Babel, is the firſt who by the Scripture is ſaid to have been a mighty one in the earth. He was therefore the firſt king, or kings were not mighty; and he being the firſt king, mankind muſt have lived till his time without laws, or elſe laws were made before kings. To ſay that there was then no law is in many reſpects moſt abſurd; for the nature of man cannot be without it, and the violences committed by ill men before the flood could not have been blamed, if there had been no law; for that which is not cannot be tranſgreſſed. Cain could not have feared, that every man who met him would ſlay him, if there had not been a law to ſlay him that had ſlain another. But in this caſe the Scripture is clear, at leaſt from the time that Noah went out of the ark; for God then gave him a law ſufficient for the ſtate of things at that time, if all violence was prohibited under the name of ſhedding blood, though not under the ſame penalty as murder. But penal laws being in vain, if there be none to execute them, ſuch as know God does nothing in vain may conclude, that he who gave this law did appoint ſome way for its execution, though unknown to us. There is therefore a law not given by kings, but laid upon ſuch as ſhould be kings, as well as on any other perſons, by one who is above them; and perhaps I may ſay, that this law preſſes moſt upon them, becauſe they who have moſt power do moſt frequently break out into acts of violence, and moſt of all diſdain to have their will reſtrained: and he that will exempt kings from this law, muſt either find, that they are excepted in the text, or that God who gave it has not a power over them.

Moreover, it has been proved at the beginning of this treatiſe, that the firſt kings were of the accurſed race, and reigned over the accurſed nations, while the holy ſeed had none. If therefore there was no law where there was no king, the accurſed poſterity of Ham had laws, when the bleſſed deſcendents of Shem had none, which is moſt abſurd; the word "outlaw," or "lawleſs," being often given to the wicked, but never to the juſt and righteous.

The impious folly of ſuch aſſertions goes farther than our author perhaps ſuſpected. For if there be no law where there is no king, the Iſraelites had no law till Saul was made king, and then the law they had was from him. They had no king before, for they aſked one. They could not have aſked one of Samuel, if he had been a king. He had not been offended,

offended, and God had not imputed to them the ſin of rejecting him, if they had aſked that only which he had ſet over them. If Samuel were not king, Moſes, Joſhua, and the other judges, were not kings, for they were no more than he. They had therefore no king, and conſequently, if our author ſay true, no law. If they had no law till Saul was king, they never had any, for he gave them none; and the prophets were to blame for denouncing judgments againſt them for receding from, or breaking their law, if they had none. He cannot ſay that Samuel gave them a law; for that which he wrote in a book *, and laid up before the Lord, was not a law to the people, but to the king. If it had been a law to the people, it muſt have been made public; but as it was only to the king, he laid it up before God, to teſtify againſt him if he ſhould adventure to break it. Or if it was a law to the people, the matter is not mended; for it was given in the time of a king by one who was not king. But in truth it was the law of the kingdom by which he was king, and had been wholly impertinent, if it was not to bind him; for it was given to no other perſon, and to no other end. SECT. 1

Our author's aſſertion, upon which all his doctrine is grounded, "that "there is no nation that allows children any action or remedy for being "unjuſtly governed," is as impudently falſe as any other propoſed by him. For though a child will not be heard that complains of the rod, yet our own law gives relief to children againſt their fathers, as well as againſt other perſons that do them injuries; upon which we ſee many ill effects, and I do rather relate than commend the practice. In other places the law gives relief againſt the extravagances, of which fathers may be guilty in relation to their children, though not to that exceſs as to bring them ſo near to an equality as in England. They cannot impriſon, ſell, or kill their children, without expoſing themſelves to the ſame puniſhments with other men; and if they take their eſtates from them, the law is open, and gives relief againſt them. But, on the other ſide, children are puniſhed with death, if they ſtrike or outrageouſly abuſe their parents; which is not ſo with us.

Now, if the laws of nations take ſuch care to preſerve private men from being too hardly uſed by their true and natural fathers, who have ſuch a love and tenderneſs for them in their own blood, that the moſt wicked and barbarous do much more frequently commit crimes for them than againſt them; how much more neceſſary is it to reſtrain the fury that kings, who at the beſt are but fantaſtical fathers, may exerciſe to the deſtruction of the whole people? It is a folly to ſay, that David, and ſome other kings, have had, or that all ſhould have as tender an affection towards their people as towards their children; for beſides that even the firſt propoſition is not acknowledged, and will be hardly verified in any one inſtance, there is a vaſt diſtance between what men ought to be, and what they are. Every man ought to be juſt, true, and charit-

* 1 Sam. ch. 10, v. 25

CHAP. III able; and if they were ſo, laws would be of no uſe: but it were a madneſs to aboliſh them upon a ſuppoſition that they are ſo; or to leave them to a future puniſhment, which many do not believe, or not regard. I am not obliged to believe, that David loved every Iſraelite as well as his ſon Abſalom; but though he had, I could not from thence infer, that all kings do ſo, unleſs I were ſure, that all of them were as wiſe and virtuous as he.

But to come more cloſe to the matter: do we not know of many kings who have come to their power by the moſt wicked means that can enter into the heart of man, even by the moſt outrageous injuries done to the people, ſometimes by a foreign aid? As kings were by the power of the Romans impoſed upon the Britons, that they might waſte the forces, and break the ſpirits of that fierce people. This Tacitus acknowledges, and ſays, "that among other inſtruments of enſlaving nations, they im-"poſed kings upon them *." The Medici were made maſters of Florence by the force of Charles the fifth's army. Sometimes, by a corrupt party in their own country, they have deſtroyed the beſt men, and ſubdued the reſt: as Agathocles, Dionyſius, and Caeſar, did at Rome and Syracuſe. Others, taking upon them to defend a people, have turned the arms with which they were entruſted, againſt their own maſters: as Franceſco Sforza, who, being choſen by thoſe of Milan to be their general againſt the Venetians, made peace with them, and by their aſſiſtance made himſelf prince, or, in our author's phraſe, father of that great city. If theſe be acts of tenderneſs, love, juſtice, and charity, thoſe who commit them may well think they have gained the affections of their people, and grow to love thoſe from whom they fear nothing, and by whom they think they are loved. But if, on the other hand, they know they have attained to their greatneſs by the worſt of all villainies, and that they are on that account become the object of the public hatred, they can do no leſs, than hate and fear thoſe by whom they know themſelves to be hated. The Italians ordinarily ſay, that he who does an injury never pardons †, becauſe he thinks he is never pardoned: but he that enſlaves and oppreſſes a people does an injury, which can never be pardoned, and therefore fears it will be revenged.

Other princes, who come to their thrones by better ways, and are not contented with the power that the law allows, draw the ſame hatred upon themſelves, when they endeavour by force or fraud to enlarge it; and muſt neceſſarily fear and hate their own people, as much as he, who by the ways before-mentioned has betrayed or ſubdued them. Our author makes nothing of this; but, taking it for granted, that it was all one whether Samuel ſpoke of a king or a tyrant, declares, that the ſame

* Redacta paulatim in formam provinciae proxima pars Britanniae, addita inſuper veteranorum colonia. Quaedam civitates Cogiduno regi donatae: is ad noſtram uſque memoriam fidiſſimus manſit, vetere ac jampridem receptâ populi Romani conſuetudine, ut haberet inſtrumenta ſervitutis et reges. Tacit. in vitâ Agric. § 14.

† Chi fa ingiuria non perdona mai.

patient

patient obedience is due to both: but, not being pleaſed to give any rea- SECT. I.
ſon, why we ſhould believe him, I intend to offer ſome, why we ſhould not.

Firſt, there is nothing in the nature or inſtitution of monarchy, that obliges nations to bear the exorbitances of it, when it degenerates into tyranny.

In the ſecond place, we have no precept for it.

Thirdly, we have many approved examples, and occaſional particular commands to the contrary.

To the firſt. The point of paternity being explained, the duty of children to parents proved to proceed from the benefits received from them, and the power over them, which at the firſt, ſeems to have been left at large, becauſe it was thought they would never abuſe it, ſhewn to have long ſince been much reſtrained in all civilized nations, and particularly in our own, we may conclude, that men are all made of the ſame paſte, and that one owes no more to another, than another to him, unleſs for ſome benefit received, or by virtue of ſome promiſe made. The duty ariſing from a benefit received muſt be proportionable to it: that which grows from a promiſe, is determined by the promiſe or contract made, according to the true ſenſe and meaning of it. He therefore, that would know what the Babylonians, Hebrews, Athenians, or Romans, did owe to Nimrod, Saul, Theſeus, or Romulus, muſt inquire what benefits were received from them, or what was promiſed to them. It cannot be ſaid, that any thing was due to them for the ſake of their parents: they could have no prerogative by birth. Nimrod was the ſixth ſon of Cuſh, the ſon of Ham, who was the youngeſt ſon of Noah. His kingdom was erected, whilſt Noah, and his elder ſons Shem and Japhet, as well as Ham, Cuſh, and his elder ſons, were ſtill living. Saul was the ſon of Kiſh, a man of Benjamin, who was the youngeſt ſon of Jacob; and he was choſen in the moſt democratical way by lot from among the whole people. Theſeus, according to the cuſtom of the times, pretended to be the ſon of Neptune; and Rhea was ſo well pleaſed with the ſoldier, that had gotten her with child, that ſhe reſolved to think, or ſay, that Mars was the father of the children, that is to ſay, they were baſtards; and therefore, whatever was due to them, was upon their own perſonal account, without any regard to their progenitors. This muſt be meaſured according to what they did for thoſe nations before they were kings, or by the manner of their advancement. Nothing can be pretended before they were kings. Nimrod roſe up after the confuſion of languages, and the people, that underſtood the tongue he ſpoke, followed him. Saul was a young man unknown in Iſrael. Theſeus and Romulus had nothing to recommend them, before other Athenians and Romans, except the reputation of their valour; and the honours conferred upon them for that reaſon muſt proceed from expectation or hope, and not from gratitude or obligation. It muſt therefore proceed from the manner by which they came to be kings. He that neither is nor has any title to be a king can

come

CHAP. III come to be ſo only by force, or by conſent. If by force, he does not confer a benefit upon the people, but injures them in the moſt outrageous manner. If it be poſſible therefore, or reaſonable to imagine, that one man did ever ſubdue a multitude, he can no otherwiſe reſemble a father, than the worſt of all enemies, who does the greateſt miſchiefs, reſembles the beſt of all friends, who confers the moſt ineſtimable benefits; and conſequently does as juſtly deſerve the utmoſt effects of hatred, as the other does of love, reſpect, and ſervice. If by conſent, he who is raiſed from among the people, and placed above his brethren, receives great honours and advantages, but confers none. The obligations of gratitude are on his ſide, and whatever he does, in acknowledgment to his benefactors for their love to him, is no more than his duty; and he can demand no more from them, than what they think fit to add to the favours already received. If more be pretended, it muſt be by virtue of that contract, and can no otherwiſe be proved, than by producing it to be examined, that the true ſenſe, meaning, and intention of it may be known.

This contract muſt be in form and ſubſtance according to a general rule given to all mankind, or ſuch as is left to the will of every nation. If a general one be pretended, it ought to be ſhewn, that, by inquiring into the contents, we may underſtand the force and extent of it. If this cannot be done, it may juſtly paſs for a fiction; no concluſion can be drawn from it; and we may be ſure, that what contracts ſoever have been made between nations and their kings, have been framed according to the will of thoſe nations; and conſequently, how many ſoever they are, and whatever the ſenſe of any or all of them may be, they can oblige no man, except thoſe, or at the moſt the deſcendants of thoſe that made them. Whoever therefore would perſuade us, that one or more nations are, by virtue of thoſe contracts, bound to bear all the inſolences of tyrants, is obliged to ſhew, that by thoſe contracts they did for ever indefinitely bind themſelves ſo to do, how great ſoever they might be.

I may juſtly go a ſtep farther, and affirm, that if any ſuch ſhould appear in the world, the folly and turpitude of the thing would be a ſufficient evidence of the madneſs of thoſe that made it, and utterly deſtroy the contents of it. But no ſuch having been yet produced, nor any reaſon given to perſuade a wiſe man that there has ever been any ſuch, at leaſt among civilized nations, for whom only we are concerned, it may be concluded there never was any; or if there were, they do not at all relate to our ſubject; and conſequently, that nations ſtill continue in their native liberty, and are no otherwiſe obliged to endure the inſolence of tyrants, than they, or each of them, may eſteem them tolerable.

To the ſecond. Though the words of Samuel had implied a neceſſity incumbent upon the Hebrews to bear all the injuries that their kings ſhould do to them, it could no way relate to us; for he does not ſpeak of all kings, but of ſuch as they had aſked, even ſuch as reigned over the ſurrounding Aſiatics their neighbours, who are no leſs infamous in the world for their baſeneſs and cowardice, than deteſtable for their idolatry and vices.

It

It was not a plot or trick of Samuel to keep the government in himſelf and family: ſuch ſcurrilous expreſſions or thoughts are fit only for Filmer, Heylin, and their diſciples. But the prophet, being troubled at the folly and wickedneſs of the people, who choſe rather to ſubject themſelves to the irregular will of a man, than to be governed by God, and his law, did, by the immediate command of God, declare to them what would be the event of their fury; that ſince they would be like to their neighbours in ſin and folly, he told them they ſhould be like to them in ſhame and miſery; ſince they deſired to caſt off the thing that was good, they ſhould ſuffer evil as the product of their own counſels; and that when they ſhould cry to the Lord, from a ſenſe of their miſeries, he does not tell them, as our author falſly ſays, they ſhould have no other remedy againſt tyrants but crying and praying, but that their cries and prayers ſhould not be heard. It was juſt, that when they had rejected God, he ſhould reject them, and leave them under the weight of the calamities they had brought upon themſelves. In all other caſes God had ever ſaid, that when his people returned to him, he would hear and ſave them. When they cried, by reaſon of the oppreſſions they ſuffered under the Egyptians, Canaanites, Midianites, Philiſtines, and others, though their crimes had deſerved them all, yet God heard, and relieved them. But when they meditated this final defection from his law, and rejection of his government, God ſeemed to change his nature, and forget to be gracious: "when ye ſhall cry to me by reaſon of your king, I will not hear you." This was the ſtrongeſt dehortation from their wicked intention that can be imagined; but being not enough to reclaim them, they anſwered, "nay, "but we will have a king." They were like to their neighbours in folly and vice, and would be like to them in government; which brought all the calamities upon them that the others ſuffered. But I know not what concluſion can be drawn from hence in favour of our author's doctrine, unleſs all nations are obliged furiouſly to run into the ſame crimes with the Iſraelites, or to take upon themſelves the ſame puniſhment, though they do not commit the ſame crimes. SECT. I

If this was not a precept to the Iſraelites, inſtructing them what they ſhould do, but a denunciation of what they ſhould ſuffer for the evil which they had committed, the Old Teſtament will afford none; and I hope in due time to anſwer ſuch as he alleges from the New. Nay, we may conclude there can be none there, becauſe, being dictated by the ſame ſpirit, which is always uniform, and conſtant to itſelf, it could not agree with the xvii of Deuteronomy, which ſo extremely reſtrains ſuch a king as God allowed, as not to ſuffer him in any manner to raiſe his heart above his brethren; and was ſaid in vain, if at the ſame time it gave him a power which might not be reſiſted, or forbad others to reſiſt him if he would not obey the law.

To the third. Whatever was done by the command of God againſt Pharoah king of Egypt, and againſt the kings of the Canaanites, Midianites, Moabites, Edomites, Amorites, or Philiſtines, by Moſes, Joſhua, Ehud,

CHAP. III Ehud, Barak, Gideon, Samſon, Jephthah, Samuel, and the reſt of the judges, comes expreſsly under the particular precepts and examples promiſed by me, to ſhew, that God had occaſionally commanded, and his ſervants executed his commands in reſiſting and deſtroying the perſons of kings, who were their own kings alſo, if poſſeſſion was only to be regarded. And though this be ſufficient to overthrow our author's doctrine; "that we are not to examine the titles of kings, whether they be "from uſurpation, or any other means, but only to look upon the "power;" yet they who ſeek truth, ought not to content themſelves merely with victory, or to eſteem that a victory, which is obtained by what the ſchools call "argumentum ad hominem," grounded upon a falſe propoſition, and is of no force, except againſt thoſe who are ſo ill adviſed as to advance it. Therefore laying aſide the advantages that may be juſtly taken againſt Filmer, for the folly of aſſerting the ſame right to be in a uſurper, as in a lawful prince; and confeſſing, that though ſuch as have no title may and ought to be ſuppreſſed as enemies and robbers, when reſpect and obedience is due to thoſe who are rightly inſtituted; I ſay, that none can be claimed by a prince lawfully inſtituted, if he aſſume to himſelf a power which is not granted to him by the law of his inſtitution, becauſe, as Grotius ſays, "his legal power does not extend ſo far*;" or turn the power that is given him to ends contrary to thoſe for which it was given, becauſe he thereby deſtroys it, and puts himſelf into the ſame condition as if it had never been. This is proved by the example of Saul: though the people ſinned grievouſly in aſking a king, yet God aſſenting to their demand, no prince was ever more ſolemnly inſtituted than he. The people choſe him by lot from among all the tribes, and he was placed in the throne by the general conſent of the whole nation. But he turning his lawful power into tyranny, diſobeying the word of the prophet, ſlaying the prieſts, ſparing the Amalekites, and oppreſſing the innocent, overthrew his own right; and God declared the kingdom, which had been given him, under a conditional promiſe of perpetuity, to be entirely abrogated. This did not only give a right to the whole people of oppoſing him, but to every particular man; and upon this account David did not only fly from his fury, but reſiſted it. He made himſelf head of all the diſcontented perſons that would follow him. He had at firſt four, and afterwards ſix hundred men: he kept theſe in arms againſt Saul, and lived upon the country; and reſolved to deſtroy Nabal, with all his houſe, only for refuſing to ſend proviſions for his men. Finding himſelf weak and unſafe, he went to Achiſh the Philiſtine, and offered his ſervice even againſt Iſrael. This was never reputed a ſin in David, or in thoſe that followed him, by any except the wicked court-flatterer Doeg the Edomite, and the drunken fool Nabal, who is ſaid to have been a man of Belial.

If it be objected, that this was rather a flight than a war, inaſmuch as he neither killed Saul nor his men, or that he made war as a king anointed

* Quia eatenus imperium non habet. Grot. de Jure Belli, l. 1, c. 4, § 13

by

by Samuel, I anſwer, that he who had ſix hundred men, and entertained as many as came to him, ſufficiently ſhewed his intention rather to reſiſt than to fly; and no other reaſon can be given why he did not farther purſue that intention, than that he had no greater power: for he who arms ſix hundred men againſt his prince, when he can have no more, can no more be ſaid to obey patiently, than if he had ſo many hundreds of thouſands. This holds, though he kill no man; for that is not the war, but the manner of making it. And it were as abſurd to ſay, David made no war, becauſe he killed no men, as that Charles the eighth made no war in Italy, becauſe Guicciardini ſays, he conquered Naples without breaking a lance. But as David's ſtrength increaſed, he grew to be leſs ſparing of blood. Thoſe who ſay kings never die, but that the right is immediately transferred to the next heirs, cannot deny that Iſhboſheth inherited the right of Saul, and that David had no other right of making war againſt him, than againſt Saul, unleſs it were conferred upon him by the tribe of Judah, that made him king. If this be true, it muſt be confeſſed, that not only a whole people, but a part of them, may at their own pleaſure abrogate a kingdom, though ever ſo well eſtabliſhed by common conſent; for none was ever more ſolemnly inſtituted than that of Saul; and few ſubjects have more ſtrongly obliged themſelves to be obedient. If it be not true, the example of Nabal is to be followed; and David, though guided by the Spirit of God, deſerves to be condemned as a fellow that roſe up againſt his maſter. SECT. I

If to elude this it be ſaid, that God inſtituted and abrogated Saul's kingdom, and that David, to whom the right was tranſmitted, might therefore proceed againſt him and his heirs as private men, I anſwer, that if the obedience due to Saul proceeded from God's inſtitution, it can extend to none, but thoſe who are ſo peculiarly inſtituted and anointed by his command, and the hand of his prophet, which will be of little advantage to the kings, that can give no teſtimony of ſuch an inſtitution or unction; and an indiſputable right will remain to every nation of abrogating the kingdoms which are inſtituted by and for themſelves. But as David did reſiſt the authority of Saul and Iſhboſheth, without aſſuming the power of a king, though deſigned by God, and anointed by the prophet, till he was made king of Judah by that tribe; or arrogating to himſelf a power over the other tribes, till he was made king by them, and had entered into a covenant with them, it is much more certain, that the perſons and authority of ill kings, who have no title to the privileges, due to Saul by virtue of his inſtitution, may be juſtly reſiſted: which is as much as is neceſſary to my purpoſe.

Object. But David's heart ſmote him, when he had cut off the ſkirt of Saul's garment, and he would not ſuffer Abiſhai to kill him *. — This might be of ſome force, if it were pretended, that every man was obliged to kill an ill king, whenever he could do it, which I think no man ever

* 1 Sam. ch. 24, v. 5. ch. 26, v. 9

CHAP. III did ſay; and no man having ever affirmed it, no more can be concluded than is confeſſed by all. But how is it poſſible, that a man of a generous ſpirit, like David, could ſee a great and valiant king, choſen from among all the tribes of Iſrael, anointed by the command of God, and the hand of the prophet, famous for victories obtained againſt the enemies of Iſrael, and a wonderful deliverance thereby purchaſed to that people, caſt at his feet to receive life or death from the hand of one, whom he had ſo furiouſly perſecuted, and from whom he leaſt deſerved, and could leaſt expect mercy, without extraordinary commotion of mind; eſpecially when Abiſhai, who ſaw all that he did, and thereby ought beſt to have known his thoughts, expreſſed ſo great a readineſs to kill him? This could not but make him reflect upon the inſtability of all that ſeemed to be moſt glorious in men, and ſhew him, that if Saul, who had been named even among the prophets, and aſſiſted in an extraordinary manner to accompliſh ſuch great things, was ſo abandoned and given over to fury, miſery, and ſhame, he that ſeemed to be moſt firmly eſtabliſhed ought to take care leſt he ſhould fall.

Surely theſe things are neither to be thought ſtrange in relation to Saul, who was God's anointed, nor communicable to ſuch as are not. Some may ſuppoſe he was king by virtue of God's unction, though if that were true he had never been choſen and made king by the people, but it were madneſs to think he became God's anointed by being king: for if that were ſo, the ſame right and title would belong to every king, even to thoſe, who by his command were accurſed and deſtroyed by his ſervants Moſes, Joſhua, and Samuel. The ſame men, at the ſame time, and in the ſame ſenſe, would be both his anointed and accurſed, loved and deteſted by him; and the moſt ſacred privileges made to extend to the worſt of his enemies.

Again, the war made by David was not upon the account of being king, as anointed by Samuel, but upon the common natural right of defending himſelf againſt the violence and fury of a wicked man. He truſted to the promiſe, "that he ſhould be king," but knew that as yet he was not ſo. And when Saul found he had ſpared his life, he ſaid, "I "now know well, that thou ſhalt ſurely be king, and that the kingdom "of Iſrael ſhall be eſtabliſhed in thy hand;" not that it was already. Nay David himſelf was ſo far from taking upon him to be king, till the tribe of Judah had choſen him, that he often acknowledged Saul to be his lord. When Baanah and Rechab brought the head of Iſhboſheth to him, he commanded them to be ſlain; "becauſe they had killed a righteous "man upon his bed, in his own houſe*;" which he could not have ſaid, if Iſhboſheth had unjuſtly detained from him the ten tribes, and he had a right to reign over them before they had choſen him. The word of God did not make him king, but only foretold, that he ſhould be king; and by ſuch ways as he pleaſed prepared the hearts of the people

* 2 Sam. ch. 4, v. 11

to

to ſet him up; and till the time deſigned by God for that work was accompliſhed, he pretended to no other authority, than what the ſix hundred men who firſt followed him, afterwards the tribe of Judah, and at laſt all the reſt of the people, conferred upon him. SECT. 2

I no way defend Abſalom's revolt; he was wicked, and acted wickedly: but after his death no man was ever blamed or queſtioned for ſiding with him. Amaſa, who commanded his army, is repreſented in Scripture as a good man, Solomon ſaying, that Joab, by ſlaying Abner and Amaſa, had killed "two men who were better than himſelf *;" which could not have been, unleſs the people had a right of looking into matters of government, and of redreſſing abuſes: though being deceived by Abſalom, they ſo far erred, as to prefer him, who was in all reſpects wicked, before the man, who, except in the matter of Uriah, is ſaid to be after God's own heart. This right was acknowledged by David himſelf, when he commanded Huſhai to ſay to Abſalom, "I will be thy ſervant, O king†;" and by Huſhai in the following chapter, "nay, but whom the Lord, and "his people, and all the men of Iſrael chooſe, his will I be, and with "him will I abide ‡:" which could have no ſenſe in it, unleſs the people had a right of chooſing, and the choice in which they generally concurred was eſteemed to be from God.

But if Saul, who was made king by the whole people, and anointed by the command of God, might be lawfully reſiſted when he departed from the law of his inſtitution, it cannot be doubted, that any other, for the like reaſon, may be reſiſted. If David, though deſigned by God to be king, and anointed by the hand of the prophet, was not king till the people had choſen him, and he had made a covenant with them, it will, if I miſtake not, be hard to find a man who can claim a right which is not originally from them. And if the people of Iſrael could erect, and pull down, inſtitute, abrogate, or transfer to other perſons or families, kingdoms more firmly eſtabliſhed than any we know, the ſame right cannot be denied to other nations.

SECTION II

THE KINGS OF ISRAEL AND JUDAH WERE UNDER A LAW NOT SAFELY TO BE TRANSGRESSED.

Our author might be pardoned if he only vented his own follies; but he aggravates his own crime, by imputing them to men of more credit. And though I cannot look upon Sir Walter Raleigh as a very good interpreter of Scripture, he had too much underſtanding to ſay, "that if practice "declare the greatneſs of authority, even the beſt kings of Iſrael and

* 1 Kings ch. 2, v. 32
† 2 Sam. ch. 15, v. 34
‡ 2 Sam. ch. 16, v. 18

CHAP. III

" Judah were not tied to any law, but they did whatever they pleaſed in " the greateſt matters;" for there is no ſenſe in thoſe words. " If practice " declares the greatneſs of authority, even the beſt were tied to no law," ſignifies nothing, for practice cannot declare the greatneſs of authority. Peter the Cruel of Caſtile, and Chriſtiern the ſecond of Denmark, killed whom they pleaſed; but no man ever thought they had therefore a right to do ſo: and if there was a law, all were tied by it, and the beſt were leſs likely to break it than the worſt. But if Sir Walter Raleigh's opinion, which he calls a conjecture, be taken, there was ſo great a difference between the kings of Iſrael and Judah, that, as to their general proceedings in point of power, hardly any thing can be ſaid which may rightly be applied to both; and he there endeavours to ſhew, that the reaſon why the ten tribes did not return to the houſe of David, after the deſtruction of the houſes of Jeroboam and Baaſha, was, becauſe they would not endure a power ſo abſolute as that which was exerciſed by the houſe of David *. If he has therefore any where ſaid, that the kings did what they pleaſed, it muſt be in the ſenſe that Moſes Maimonides ſays, the kings of Iſrael committed many extravagances, becauſe they were " inſolent, impious, and deſpiſers of the law †." But whatever Sir Walter Raleigh may ſay (for I do not remember his words, and have not leiſure to ſeek whether any ſuch are found in his books) it is moſt evident, they did not what they pleaſed. The tribes, that did not ſubmit to David, nor crown him till they thought fit, and then made a covenant with him, took care it might be obſerved, whether he would or not. Abſalom's rebellion, followed by almoſt all Iſrael, was a terrible check to his will. That of Sheba, the ſon of Bichri, was like to have been worſe, if it had not been ſuppreſſed by Joab's diligence; and David often confeſſed the ſons of Zeruiah were too hard for him. Solomon indeed, overthrowing the law given by Moſes, multiplying gold and ſilver, wives and horſes, introducing idolatry, and lifting up his heart above his brethren, did what he pleaſed. But Rehoboam paid for all: the ten tribes revolted from him, by reaſon of the heavy burdens laid upon them, ſtoned Adoram, who was ſent to levy the tributes, and ſet up Jeroboam, who, as Sir Walter Raleigh ſays in the place before cited, had no other title than the courteſy of the people, and utterly rejected the houſe of David. If practice therefore declares a right, the practice of the people to avenge the injuries they ſuffered from their kings, as ſoon as they found a man fit to be their leader, ſhews they had a right of doing it.

It is true, the beſt of the kings, with Moſes, Joſhua, and Samuel, may in one ſenſe be ſaid to have done what they pleaſed, becauſe they

* " He that ſhall take pains to look into thoſe examples which are extant, of the diffe- " rent courſes held by the kings of Iſrael and Judah, in adminiſtration of juſtice, will find " it moſt probable, that upon this ground it was, that the ten tribes continued ſo averſe " from the line of David, as to think all adverſity more tolerable, than the weighty ſceptre " of that houſe." Hiſt. of the World, b. 2, c. 19, § 6.

† Vide ſuprà, p. 251

deſired

SECT. 2

desired to do that only which was good. But this will hardly be brought to confer a right upon all kings: and I deny, that even the kings of Judah did what they pleased, or that it were any thing to our question, if they did. Zedekiah professed to the great men, that is, to the sanhedrim, "that without them he could do nothing *." When Amaziah, by his folly, had brought a great slaughter upon the tribe of Judah, they conspired against him in public council. Whereupon he fled to Lachish, and they, pursuing him thither, killed him, avowed the fact, and it was neither questioned, nor blamed †: which examples agree with the paraphrase of Josephus on Deut. xvii, "he shall do nothing without the "consent of the sanhedrim; and if he attempt it, they shall hinder him ‡." This was the law of God, not to be abrogated by man; a law of liberty directly opposite to the necessity of submitting to the will of a man. This was a gift bestowed by God upon his children and people: whereas slavery was a great part of the curse denounced against Ham for his wickedness, and perpetually incumbent upon his posterity. The great sanhedrim were constituted judges, as Grotius says, particularly of such matters as concerned their kings §; and Maimonides affirms, that the kings were judged by them. The distribution of the power to the inferior sanhedrims, in every tribe and city, with the right of calling the people together in general assemblies as often as occasion required, was the basis of their liberty; and, being added to the law of the kingdom, preferibed in the xvii of Deuteronomy (if they should think fit to have a king) established the freedom of that people upon a solid foundation. And though they in their fury did in a great measure wave the benefits God had bestowed upon them, yet there was enough left to restrain the lusts of their kings. Ahab did not treat with Naboth, as with a servant, whose person and estate depended upon his will; and does not seem to have been so tender-hearted as to grieve much for his refusal, if by virtue of his royal authority he could have taken away his vineyard, and his life: but, that failing, he had no other way of accomplishing his design, than by the fraud of his accursed wife, and the perfidious wretches she employed. And no better proof, that it did fail, can reasonably be required, than that he was obliged to have recourse to such sordid, odious, and dangerous remedies. But we are furnished with one, that is more unquestionable: "hast thou "killed, and also taken possession? In the place where dogs licked the "blood of Naboth, shall they lick thy blood, even thine ¶." This shews, that the kings were not only under a law, but under a law of equality with the rest of the people, even that of retaliation. He had raised his heart above his brethren; but God brought him down, and made him to suffer what he had done. He was in all respects wicked; but the justice of this sentence consisted in the law he had broken, which could not have been, if he had been subject to none. But as this reta-

* Jer. ch. 38, v. 5 † 2 Kings ch. 14, v. 19. ‡ Vide suprà, p. 250.
§ Vide Grot. de Jure Belli, l. 1, c. 3, § 20 ¶ 1 Kings ch. 21, v. 19.

liation

CHAP. III liation was the ſum of all the judicial law given by God to his people, the ſentence pronounced againſt Ahab, in conformity to it, and the execution committed to Jehu ſhews, that the kings were no leſs obliged to perform the law, than other men, though they were not ſo eaſily puniſhed for tranſgreſſing it, as others were: and, if many of them did eſcape, it perfectly agrees with what had been foretold by Samuel.

SECTION III

SAMUEL DID NOT DESCRIBE TO THE ISRAELITES THE GLORY OF A FREE MONARCHY, BUT THE EVILS THE PEOPLE SHOULD SUFFER, THAT HE MIGHT DIVERT THEM FROM DESIRING A KING.

Though no reſtraint had been put upon the Hebrew kings, it could be no prejudice to any other nation. They deflected from the law of God; and, rejecting him, that he ſhould reign over them no longer, they fell into that miſery, which could affect none, but thoſe who enjoy the ſame bleſſings, and with the ſame fury deſpiſe them. If their kings had no more power than conſiſted with their welfare, they gave it, and God renounces the inſtitution of ſuch *. He gave them a law of liberty; and if they fell into the ſhame and miſery that accompanies ſlavery, it was their own work. They were not obliged to have any king; and could not without a crime have any, but one who muſt not raiſe his heart above the reſt of them. This was taught by Moſes: and Samuel, who ſpoke by the ſame ſpirit, could not contradict him; and in telling the people, what ſuch a king as they deſired would do, when he ſhould be eſtabliſhed, he did announce to them the miſery they would bring upon themſelves, by chooſing ſuch a one as he had forbidden. This free monarchy, which our author thinks to be ſo majeſtically deſcribed, was not only diſpleaſing to the prophet, but declared by God to be a rejection of him, and inconſiſtent with his reign over them. This might have been ſufficient to divert any other people from their furious reſolution; but the prophet, farther enforcing his diſſuaſion, told them, that God, who had in all other caſes been their helper, would not hear them when they ſhould cry to him by reaſon of their king †. This is the majeſtic deſcription of that free monarchy, with which our author is ſo much pleaſed: it was diſpleaſing to the prophet, hateful to God, an aggravation of all the crimes they had committed ſince they came out of Egypt, and that which would bring (as it did) moſt certain and irreparable deſtruction upon them.

* "They have ſet up kings, but not by me; they have made princes, and I know them not." Hoſ. ch. 8, v. 4

† 1 Sam. ch. 8, v. 18

But

But it ſeems, the regal majeſty in that age was in its infancy, and little in compariſon of that, which we find deſcribed by Tacitus, Suetonius, and others, in later times. "He ſhall take your ſons," ſays Samuel, "and ſet them over his chariots, and your daughters to make them confectioners and cooks;" but the majeſty of the Roman emperors was carried to a higher pitch of glory. Ahab could not, without employing treachery and fraud, get a ſmall ſpot of ground for his money to make a garden of herbs: but Tiberius, Caligula, and Nero, killed whom they pleaſed, and took what they pleaſed of their eſtates. When they had ſatiated their cruelty and avarice, by the murders and confiſcations of the moſt eminent and beſt men, they commonly expoſed their children to the luſt of their ſlaves. If the power of doing evil be glorious, the utmoſt exceſs is its perfection; and it is pity, that Samuel knew no more of the effects produced by unreſtrained luſt, that he might have made the deſcription yet more majeſtic: and as nothing can be ſuffered by man beyond conſtrupation, torments, and death, inſtead of ſuch trifles as he mentioned, he might have ſhewed them the effects of fury in its greateſt exaltation. SECT. 3

If it be good for a nation to live under ſuch a power, why did not God of his own goodneſs inſtitute it? Did his wiſdom and love to his people fail? Or if he himſelf had not ſet up the beſt government over them, could he be diſpleaſed with them for aſking it? Did he ſeparate that nation from the reſt of mankind, to make their condition worſe than that of others? Or can they be ſaid to have ſinned and rejected God, when they deſired nothing but the government, which, by a perpetual ordinance, he had eſtabliſhed over all the nations of the world? Is not the law of nature a rule which he has given to things? and the law of man's nature, which is reaſon, an emanation of the divine wiſdom, or ſome footſteps of divine light remaining in us? Is it poſſible that this, which is from God, can be contrary to his will; and can he be offended with thoſe who deſire to live in a conformity to that law? Or could it juſtly be ſaid, the people had choſen that which is not good, if nothing in government be good but what they choſe?

But as the worſt men delight in the worſt things, and fools are pleaſed with the moſt extreme abſurdities, our author not only gives the higheſt praiſes to that which bears ſo many marks of God's hatred; but after having ſaid, that Abraham, Iſaac, Jacob, and Moſes, were kings, he tells us, "the Iſraelites begged a king of Samuel;" which had been impertinent, if the magiſtrates inſtituted by the law were kings. And though it might be a folly in them to aſk what they had already, it could be no ſin to deſire that which they enjoyed by the ordinance of God. If they were not kings, it follows, that the only government ſet up by God, among men, wanted the principal part, even the head and foundation, from whence all the other parts have their action and being: that is, God's law is againſt God's law, and deſtroys itſelf.

CHAP. III But if God did neither by a general and perpetual ordinance eſtabliſh over all nations the monarchy which Samuel deſcribes, nor preſcribe it to his own people by a particular command, it was purely the people's creature, the production of their own fancy, conceived in wickedneſs, and brought forth in iniquity, an idol ſet up by themſelves to their own deſtruction, in imitation of their accurſed neighbours; and their reward was no better than the conceſſion of an impious petition, which is one of God's heavieſt judgments. Samuel's words are acknowledged by all interpreters, who were not malicious or mad, to be a diſſuaſion from their wicked purpoſe; not a deſcription of what a king might juſtly do by virtue of his office, but what thoſe, who ſhould be ſet up againſt God and his law, would do when they came to have the power in their hands: and I leave ſuch as have the underſtandings of men, and are not abandoned by God, to judge what influence this ought to have upon other nations, either as to obligation or imitation.

SECTION IV

NO PEOPLE CAN BE OBLIGED TO SUFFER FROM THEIR KINGS WHAT THEY HAVE NOT A RIGHT TO DO.

Our author's next work is to tell us, "that the ſcope of Samuel was to "teach the people a dutiful obedience to their king, even in thoſe things "which they did eſteem miſchievous and inconvenient. For, by telling "them what a king would do, he indeed inſtructs them what a ſubject "muſt ſuffer; yet not ſo, that it is right for kings to do injury, but it is "right for them to go unpuniſhed by the people, if they do it: ſo that "in this point it is all one, whether Samuel deſcribe a king, or a tyrant." This is hard, but the concluſion is grounded upon nothing. There is no relation between a prediction, that a thing ſhall be attempted or done to me, and a precept, that I ſhall not defend myſelf, or puniſh the perſon that attempts or does it. If a prophet ſhould ſay, that a thief lay in the way to kill me, it might reaſonably perſuade me not to go, or to go in ſuch a manner as to be able to defend myſelf; but can no way oblige me to ſubmit to the violence that ſhall be offered, or my friends and children not to avenge my death if I fall; much leſs can other men be deprived of the natural right of defending themſelves, by my imprudence or obſtinacy in not taking the warning given, whereby I might have preſerved my life. For every man has a right of reſiſting, ſome way or other, that which ought not to be done to him; and though human laws do not, in all caſes, make men judges and avengers of the injuries offered to them, I think there is none that does not juſtify the man who kills another that offers violence to him, if it appear, that the way preſcribed by the law, for the preſervation of the innocent, cannot be taken. This is not only true

true in the caſe of outrageous attempts to aſſaſſinate or rob upon the high- SECT. 4
way, but in divers others of leſs moment. I knew a man who being appointed to keep his maſter's park killed three men in one night, that came to deſtroy his deer; and putting himſelf into the hands of the magiſtrate, and confeſſing the fact, both in matter and manner, he was at the public aſſizes not only acquitted, but commended for having done his duty; and this, in a time when it is well known, juſtice was ſeverely adminiſtred, and little favour expected by him or his maſter. Nay, all laws muſt fall, human ſocieties that ſubſiſt by them be diſſolved, and all innocent perſons be expoſed to the violence of the moſt wicked, if men might not juſtly defend themſelves againſt injuſtice by their own natural right, when the ways preſcribed by public authority cannot be taken.

Our author may perhaps ſay, this is true in all except the king: and I deſire to know why, if it be true in all except the king, it ſhould not be true in relation to him? Is it poſſible, that he who is inſtituted for the obtaining of juſtice, ſhould claim the liberty of doing injuſtice as a privilege? Were it not better for a people to be without law, than that a power ſhould be eſtabliſhed by law to commit all manner of violences with impunity? Did not David reſiſt thoſe of Saul? Did he not make himſelf head of the tribe of Judah, when they revolted againſt his ſon, and afterwards of the ten tribes, that rejected his poſterity? Did not the Iſraelites ſtone Adoram who collected the taxes, revolt from the houſe of David, ſet up Jeroboam; and did not the prophet ſay it was from the Lord? If it was from the Lord, was it not good? If it was good then, is it not ſo for ever? Did good proceed from one root then, and from another now? If God had avenged the blood of Naboth by fire from heaven, and deſtroyed the houſe of Ahab, as he did the two captains, and their men, who were ſent to apprehend Elijah *, it might be ſaid, he reſerved that vengeance to himſelf; but he did it by the ſword of Jehu and the army, which was the people who had ſet him up, for an example to others.

But it is good to examine what this "dutiful obedience" is, that our author mentions. Men uſually owe no more than they receive. It is hard to know what the Iſraelites owed to Saul, David, Jeroboam, Ahab, or any other king, whether good or bad, till they were made kings; and the act of the people, by which ſo great a dignity was conferred, ſeems to have laid a duty upon them, who did receive more than they had to give. So that ſomething muſt be due from them, unleſs it were releaſed by virtue of a covenant or promiſe made; and none could accrue to them from the people afterwards, unleſs from the merit of the perſon in rightly executing his office. If a covenant or promiſe be pretended, the nature and extent of the obligation can only be known by the contents expreſſed, or the true intention of it. If there be a general form of covenant ſet and agreed upon, to which all nations muſt ſubmit, it were good to know where it may be found, and by whoſe authority it is eſtabliſhed, and then we may examine the ſenſe of it. If no ſuch do appear, we may rationally

* 2 Kings, ch. 1, v. 10, 11, 12

CHAP. III look upon thoſe to be impoſtors, who ſhould go about from thence to derive a right. And as that which does not appear is as if it were not, we may juſtly conclude there is no other, or none that can have any effect, but ſuch as have been made by particular nations with their princes; which can be of no force or obligation to others, nor to themſelves, any farther than according to the true intention of thoſe that made them. There is no ſuch thing therefore as a dutiful obedience, or duty of being obedient, incumbent upon all nations by virtue of any covenant; nor upon any particular nation, unleſs it be expreſſed by a covenant. And whoever pretends to a right of taking our ſons and daughters, lands or goods, or to go unpuniſhed if he do, muſt ſhew, that theſe things are expreſſed or intended by the covenant.

But though nations, for the moſt part, owe nothing to kings, till they are kings, and it can hardly be conceived, that any people did ever owe ſo much to a man, as might not be fully repaid by the honour and advantages of ſuch an advancement; yet it is poſſible, that when they are made kings, they may, by their good government, lay ſuch obligations upon their ſubjects, as ought to be recompenſed by obedience and ſervice. There is no mortal creature that deſerves ſo well from mankind, as a wiſe, valiant, diligent, and juſt king, who as a father cheriſhes his people, as a ſhepherd feeds, defends, and is ready to lay down his life for his flock; who is a terror to evil-doers, and a praiſe to thoſe that do well. This is a glorious prerogative, and he who has it is happy. But before this can be adjudged to belong to all, it muſt be proved, that all have the virtues that deſerve it; and he that exacts the dutiful obedience that ariſes from them muſt prove, that they are in him. He that does this, need not plead for impunity when he does injuries; for if he do them, he is not the man we ſpeak of: not being ſo, he can have no title to the duty, by human inſtitution or covenant; nor by divine law, ſince, as is already proved, God has neither eſtabliſhed kings over all nations by precept, nor recommended them by example, in ſetting them over his own people. He has not therefore done it at all; there is no ſuch thing in nature; and nations can owe nothing to kings merely as kings, but what they owe by the contract made with them.

As theſe contracts are made voluntarily, without any previous obligation, it is evident, that men make them in conſideration of their own good, and they can be of force no longer, than he with whom they are made performs his part in procuring it; and that, if he turn the power which was given to him for the public good, to the public inconvenience and damage, he muſt neceſſarily loſe the benefit he was to receive by it. The word "think" is fooliſhly and affectedly put in by our author; for thoſe matters are very often ſo evident, that even the weakeſt know them. No great ſagacity is required to underſtand, that lewd, ſlothful, ignorant, falſe, unjuſt, covetous, and cruel princes bring inconveniences and miſchiefs upon nations; and many of them are ſo evidently guilty of ſome or all theſe vices, that no man can be miſtaken in imputing them; and

the utmoſt calamities may rationally be expected from them, unleſs a remedy be applied. SECT. 4

But, ſays he, Samuel, by telling them "what the king would do, "inſtructs them what the ſubjects muſt ſuffer, and that it is right he "ſhould go unpuniſhed." But, by his favour, Samuel ſays no ſuch thing; neither is it to be concluded, that becauſe a king will do wickedly, he muſt be ſuffered, any more than a private man, who ſhould take the ſame reſolution. But he told them, that "when they ſhould cry to the "Lord by reaſon of their king, he would not hear them." This was as much as to ſay, their ruin was unavoidable; that, having put the power into the hands of thoſe, who, inſtead of protecting, would oppreſs them, and thereby having provoked God againſt them, ſo that he would not hearken to their cries, they could have no relief. But this was no ſecurity to the authors of their calamity. The houſes of Jeroboam, Baaſha, and Omri, eſcaped not unpuniſhed, though the people did not thereby recover their liberty. The kings had introduced a corruption that was inconſiſtent with it. But they, who could not ſettle upon a right foundation to prevent future miſchiefs, could avenge ſuch as they had ſuffered, upon the heads of thoſe who had cauſed them, and frequently did it moſt ſeverely. The like befel the Romans, when, by the violence of tyranny, all good order was overthrown, good diſcipline extinguiſhed, and the people corrupted. Ill princes could be cut in pieces, and miſchiefs might be revenged, though not prevented. But it is not ſo every where, nor at all times; and nothing is more irrational, than from one or a few examples to conclude a general neceſſity of future events. They alter according to circumſtances; and as ſome nations by deſtroying tyrants could not deſtroy tyranny, others in removing the tyrant have cut up tyranny by the roots. This variety has been ſeen in the ſame nation at different times. The Romans recovered their liberty by expelling Tarquin; but remained ſlaves notwithſtanding the ſlaughter of Caeſar. While the body of the people was uncorrupted, they cured the evil wrought by the perſon, in taking him away. It was no hard matter to take the regal power, that by one man had been enjoyed for life, and to place it in the hands of two annual magiſtrates, while the nobility and people were, according to the condition of that age, ſtrong, and ready to maintain it. But when the miſchief had taken deeper root, when the beſt part of the people had periſhed in the civil wars, when all their eminent men had fallen in battle, or by the proſcriptions, when their diſcipline was loſt, and virtue aboliſhed, the poor remains of the diſtreſſed people were brought under the power of a mercenary ſoldiery, and found no relief. When they killed one tyrant, they often made room for a worſe: it availed them nothing to cut off a rotten branch, while the accurſed root remained, and ſent forth new ſprouts of the ſame nature to their deſtruction. Other generous nations have been ſubdued beyond a poſſibility of recovery; and thoſe that are naturally baſe ſlide into the like miſery, without the impulſe of an exterior power. They are ſlaves by nature, and have neither the underſtanding

CHAP. III ſtanding nor courage that is required for the conſtitution and management of a government within themſelves. They can no more ſubſiſt without a maſter, than a flock without a ſhepherd. They have no comprehenſion of liberty, and can neither deſire the good they do not know, nor enjoy it if it were beſtowed upon them. They bear all burdens; and whatever they ſuffer, they have no other remedy or refuge, than in the mercy of their lord. But ſuch nations as are naturally ſtrong, ſtout, and of good underſtanding, whoſe vigour remains unbroken, manners uncorrupted, reputation unblemiſhed, and increaſing in numbers; who neither want men to make up ſuch armies as may defend them againſt foreign or domeſtic enemies, nor leaders to head them, do ordinarily ſet limits to their patience. They know how to preſerve their liberty, or to vindicate the violation of it; and the more patient they have been, the more inflexible they are when they reſolve to be ſo no longer. Thoſe who are ſo fooliſh as to put them upon ſuch courſes, do to their coſt find there is a difference between lions and aſſes; and he is a fool who knows not, that ſwords were given to men, that none might be ſlaves*, but ſuch as know not how to uſe them.

SECTION V

THE MISCHIEFS SUFFERED FROM WICKED KINGS ARE SUCH AS RENDER IT BOTH REASONABLE AND JUST FOR ALL NATIONS, THAT HAVE VIRTUE AND POWER, TO EXERT BOTH IN REPELLING THEM.

If our author deſerve credit, we need not examine, whether nations have a right of reſiſting, or a reaſonable hope of ſucceeding in their endeavours to prevent or avenge the miſchiefs that are feared or ſuffered, for it is not worth their pains. "The inconveniences," ſays he, "and miſeries, "which are reckoned by Samuel, as belonging to kingly government, "were not intolerable, but ſuch as have been and are ſtill borne by the "free conſent of ſubjects towards their princes. Nay, at this day, and "in this land, many tenants by their tenures are tied to the ſame ſubjec-"tion, even to ſubordinate and inferior lords." He is an excellent advocate for kingly government, that accounts inconveniences and miſeries to be ſome of the eſſentials of it, which others eſteem to be only incidents. Though many princes are violent and wicked, yet ſome have been gentle and juſt: though many have brought miſery upon nations, ſome have been beneficial to them; and they who are eſteemed moſt ſevere againſt monarchy think the evils, which are often ſuffered under that form of government, proceed from the corruption of it, or deviation

* Ignoratque datos, ne quiſquam ſerviat, enſes. Luc. Pharſ. l. 4, v. 579

from

from the principle of its inſtitution; and that they are rather to be imputed to the vices of the perſon, than to the thing itſelf: but if our author ſpeak truth, it is univerſally and eternally naught, inconvenience and miſery belong to it. SECT. 5.

He thinks to mend this, by ſaying, they are not intolerable: but what is intolerable; if inconveniences and miſeries be not? For what end can he think governments to have been eſtabliſhed, unleſs to prevent or remove inconveniences and miſeries; or how can that be called a government, which does not only permit, but cauſe them? What can incline nations to ſet up governments? Is it that they may ſuffer inconveniences, and be brought to miſery? or if it be to enjoy happineſs, how can that ſubſiſt under a government, which, not by accident, deflection, or corruption, but by a neceſſity inherent in itſelf, cauſes inconveniences and miſeries? If it be pretended, that no human conſtitution can be altogether free from inconveniences, I anſwer, that the beſt may to ſome degree fall into them, becauſe they may be corrupted; but evil and miſery can properly belong to none that is not evil in its own nature. If Samuel deſerve credit, or may be thought to have ſpoken ſenſe, he could not have enumerated the evils, which he foreſaw the people ſhould ſuffer from their kings, nor ſay, that they ſhould cry to the Lord by reaſon of them, unleſs they were in themſelves grievous, and in compariſon greater than what they had ſuffered or known; ſince that would not have diverted them from their intention, but rather have confirmed them in it. And I leave it to our author to ſhew, why any people ſhould, for the pleaſure of one or a few men, erect or ſuffer that government, which brings more of evil with it than any other.

Moreover, there is a great difference between that which nations ſometimes ſuffer under kings, and that which they willingly ſuffer; eſpecially if our author's maxim be received, that all laws are the mandates of kings, and the liberties and privileges of ſubjects no more than their gracious conceſſions; for how patient ſoever they are under the evils they ſuffer, it might reaſonably be believed they are ſo, becauſe they know not how to help it: and this is certainly the caſe of too many places that are known to us. Whoever doubts of this, if he will not put himſelf to the trouble of going to *Turky* or *Morocco*, let him paſs only into *Normandy*, and aſk the naked, barefooted, and half-ſtarved people, whether they are willing to ſuffer the miſeries under which they groan; and whether the magnificence of Verſailles, and the pomp of their haughty maſter, do any way alleviate their calamities. If this alſo be a matter of too much pains, the wretches that come hither every day will inform him, that it is not by their own conſent they are deprived of all honours and offices in the commonwealth, even of thoſe, which, by a corrupt cuſtom that had gained the force of a law, they had dearly bought; prohibited to exerciſe any trade; expoſed to the utmoſt effects of fraud and violence, if they refuſe to adore their maſter's idols. They will tell him, that it is not willingly they leave their lands and eſtates to ſeek a ſhelter in the moſt remote parts of the world, but becauſe they are under a force which they are not able

to

CHAP. III to reſiſt; and becauſe one part of the nation, which is enriched with the ſpoils of the other, have fooliſhly contributed to lay a yoke upon them which they cannot break.

To what he ſays concerning tenures, I anſwer, no man in England owes any ſervice to his lord, unleſs by virtue of a contract made by himſelf or his predeceſſors, under which he holds the land granted to him on that condition by the proprietor. There may be ſomething of hardſhip, but nothing of injuſtice. It is a voluntary act in the beginning and continuance; and all men know, that what is done to one who is willing is no injury *." He who did not like the conditions was not obliged to take the land; and he might leave it, if afterwards he came to diſlike them. If any man ſay, the like may be done by any one in the kingdom, I anſwer, that it is not always true; the proteſtants now in France cannot without extreme hazard go out of that country, though they are contented to loſe their eſtates. It is accounted a crime, for which they are condemned perpetually to the gallies, and ſuch as are aiding to them, to grievous fines. But before this be acknowledged to have any ſimilitude or relation to our diſcourſe concerning kings, it muſt be proved, that the preſent king, or thoſe under whom he claims, is or were proprietors of all the lands in England, and granted the ſeveral parcels under the condition of ſuffering patiently ſuch inconveniences and miſeries as are abovementioned; or that they who did confer the crown upon any of them, did alſo give a propriety in the land; which I do not find in any of the fifteen or ſixteen titles that have been ſince the coming in of the Normans: and if it was not done to the firſt of every one, it cannot accrue to the others, unleſs by ſome new act to the ſame purpoſe, which will not eaſily be produced.

It will be no leſs difficult to prove, that any thing unworthy of freemen is by any tenures impoſed in England, unleſs it be the offering up of the wives and daughters of tenants to the luſt of abbots and monks; and they are ſo far from being willingly ſuffered, that ſince the dens and nurſeries of thoſe beaſts were aboliſhed, no man that ſucceeds them has had impudence ſufficient to exact the performance; and though the letter of the law may favour them, the turpitude of the thing has extinguiſhed the uſage.

But even the kings of Iſrael and Judah, who brought upon the people thoſe evils that had been foretold by Samuel, did not think they had a right to the powers they exerciſed. If the law had given a right to Ahab to take the beſt of their vineyards, he might without ceremony have taken that of Naboth, and by the majeſtic power of an abſolute monarch, have chaſtiſed the churliſh clown, who refuſed to ſell or change it for another: but for want of it, he was obliged to take a very different courſe. If the lives of ſubjects had in the like manner depended upon the will of kings, David might without ſcruple have killed Uriah, rather than placed him in the front of the army, that he might fall by his own courage.

* Volenti non fit injuria.

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The malice and treachery of ſuch proceedings argues a defect of power; and he that acts in ſuch an oblique manner ſhews, that his actions are not warranted by the law, which is boldly executed in the face of the ſun. This ſhews the interpretation put upon the words, "againſt thee only "have I ſinned *," by court-flatterers, to be falſe. For if he had not ſinned againſt Bathſheba, whom he corrupted, Uriah whom he cauſed to be killed, the people that he ſcandalized, and the law which he violated, he had never endeavoured to cover his guilt by ſo vile a fraud. And as he did not thereby fly the ſight of God, but of men, it is evident, that in that action he feared men more than God. SECT. 5.

If by the examples of Iſrael and Judah we may judge, whether the inconveniences and miſeries brought upon nations by their kings be tolerable or intolerable, it will be enough to conſider the madneſs of Saul's cruelty towards his ſubjects, and the ſlaughter brought upon them by the hand of the Philiſtines on mount Gilboa, where he fell with the flower of all Iſrael; the civil wars that happened in the time of David, and the plague brought upon the people by his wickedneſs; the heavy burdens laid upon them by Solomon, and the idolatry favoured by him; the wretched folly of Rehoboam, and the defection of the ten tribes cauſed by it; the idolatry eſtabliſhed by Jeroboam, and the kings of Iſrael, with that of many of thoſe of Judah alſo; the frequent wars, and unheard of ſlaughters enſuing thereupon between the tribes; the daily devaſtations of the country by all ſorts of ſtrangers; the murders of the prophets; the abolition of God's worſhip; the deſolation of towns and provinces; the diſperſion of the ten tribes carried away into unknown countries; and, in the end, the abolition of both kingdoms, with the captivity of the tribe of Judah, and the utter deſtruction of the city. It cannot be ſaid, that theſe things were ſuffered under kings, and not from or by them; for the deſolation of the cities, people, and country, is, in many places of Scripture, imputed to the kings that taught Iſrael to ſin, as appears by what was denounced againſt Jeroboam, Jehu, Ahaz, Manaſſeh, Zedekiah, and others †. Nay, the captivity of Babylon with the evils enſuing was firſt announced to Hezekiah for his vanity ‡; and Joſiah, by the like, brought a great ſlaughter upon himſelf and people. But if miſchiefs fell upon the people by the frailty of theſe, who, after David, were the beſt, nothing ſurely leſs than the utmoſt of all miſeries could be expected from ſuch as were ſet to do evil, and to make the nation like to themſelves, in which they met with too great ſucceſs.

If it be pretended, that God's people, living under an extraordinary diſpenſation, can be no example to us, I deſire other hiſtories may be examined. For I confeſs, I know no nation ſo great, happy, and proſperous, nor any power, ſo well eſtabliſhed, that two or three ill kings, immediately ſucceeding each other, have not been able to deſtroy, and

* Pſalm li, v. 4. † 1 Kings, ch. 14, v. 16. 2 Kings, ch. 21, v. 11, 12, etc.
‡ 2 Kings, ch. 20, v. 17

bring

CHAP. III bring to ſuch a condition, that it appeared the nations muſt periſh, unleſs the ſenates, diets, and other aſſemblies of ſtate, had put a ſtop to the miſchief, by reſtraining or depoſing them. And though this might be proved by innumerable teſtimonies, I ſhall only ſay, that the Roman empire periſhed by the vices, corruption, and baſeneſs of their princes; the noble kingdom of the Goths in Spain was overthrown by the tyranny of Vitiza and Roderic; the preſent ſtate of Spain now languiſhes, and threatens ruin from the ſame cauſes; France was brought to the laſt degree of miſery and weakneſs by the degenerate races of Pharamond and Charles: to which may be added thoſe of our own country, which are ſo well known that I need not mention them.

SECTION VI

IT IS NOT GOOD FOR SUCH NATIONS AS WILL HAVE KINGS, TO SUFFER THEM TO BE GLORIOUS, POWERFUL, OR ABOUNDING IN RICHES.

Our author having hitherto ſpoken of all nations, as born under a neceſſity of being ſubject to abſolute monarchy, which he pretends to have been ſet up by the univerſal and indiſpenſible law of God and nature, now ſeems to leave it to their diſcretion whether they will have a king or not; but ſays, that thoſe "who will have a king are bound to allow him royal "maintenance, by providing revenues for the crown; ſince it is for the "honour, profit, and ſafety of the people, to have their king glorious, "powerful, and abounding in riches." If there be any thing of ſenſe in this clauſe, there is nothing of truth in the foundation or principle of his whole book. For as the right and being of a father is natural or inherent, and no ways depending upon the will of the child, that of a king is ſo alſo, if he be, and ought to enjoy the rights belonging to the father of the people: and it is not leſs ridiculous to ſay, "thoſe who will "have a king," than it would be to ſay, "he that will have a father;" for every one muſt have one whether he will or not. But if the king be a father, as our author from thence infers, that all laws are from him, none can be impoſed upon him, and whatever the ſubject enjoys is by his conceſſions, it is abſurd to ſpeak of an obligation lying upon the people to allow him royal maintenance, by providing revenues, ſince he has all in himſelf, and they have nothing, that is not from him, and depending upon his will. For this reaſon a worthy gentleman of the houſe of commons, in the year 1640, deſired, that the buſineſs of the judges, who in the ſtar-chamber had given for their opinion concerning ſhip-money, "that, in caſes of neceſſity, the king might provide it by "his own authority, and that he was judge of that neceſſity," might be

firſt

first examined, that they might know whether they had any thing to give, before they should speak of giving. And as it is certain, that if the sentence of those perjured wretches had stood, the subjects of England by consequence would have been found to have nothing to give, it is no less sure, that if our author's principle concerning the paternal and absolute power of kings be true, it will, by a more compendious way, appear, that it is not left to the choice of any nation, whether they will have a king or not; for they must have him, and can have nothing to allow him, but must receive all from him. SECT. 6.

But if those only who "will have a king" are bound to have one, and to allow this "royal maintenance," such as will not have a king are, by one and the same act, delivered from the necessity of having one, and from providing maintenance for him, which utterly overthrows the magnificent fabric of paternal monarchy; and the kings, who were lately represented by our author, as placed on the throne by God and nature, and endowed with an absolute power over all, appear to be purely the creatures of the people, and to have nothing but what is received from them.

From hence it may be rationally inferred, that he who makes a thing to be, makes it to be only what he pleases *. This must hold in relation to kings as well as other magistrates. And as they who made consuls, dictators, and military tribunes, gave them only such power, and for such a time, as best pleased themselves, it is impossible they should not have the same right in relation to kings, in making them what they please, as well as not to make them unless they please: except there be a charm belonging to the name, or the letters that compose it; which cannot belong to all nations, for they are different in every one according to their several languages.

But, says our author, it is "for the honour, profit, and safety of the "people, that the king should be glorious, powerful, and abounding in "riches." There is therefore no obligation upon them, and they are to judge whether it be so or not. The Scripture says plainly the contrary: "he shall not multiply silver and gold, wives and horses; he shall not "lift up his heart above his brethren †." He shall not therefore be glorious, powerful, or abounding in riches. Reason and experience teach us the same thing. If those nations that have been proud, luxurious, and vicious, have desired by pomp and riches to foment the vices of their princes, thereby to cherish their own, such as have excelled in virtue and good discipline have abhorred it; and, except in the immediate exercise of their office, have kept their supreme magistrates to a manner of living little different from that of private men. And it had been impossible to maintain that frugality, in which the integrity of their manners did chiefly consist, if they had set up an example directly contrary to it in him, who was to be an example to others; or to provide for their own safety, if they had overthrown that integrity of manners, by which it could only be

* Qui dat esse, dat modum esse.

† Deut. ch. 17, v. 16—20

CHAP. III obtained and preſerved. There is a neceſſity incumbent upon every nation, that lives in the like principle, to put a ſtop to the enterance of thoſe vices which ariſe from the ſuperfluity of riches, by keeping their kings in that honeſt poverty, which is the mother and nurſe of modeſty, ſobriety, and all manner of virtue: and no man can deny this to be well done, unleſs he will affirm, that pride, luxury, and vice, is more profitable to a nation, than the virtues that are upheld by frugality.

There is another reaſon of no leſs importance to thoſe nations, who, though they think fit to have kings, yet deſire to preſerve their liberty, which obliges them to ſet limits to the glory, power, and riches of their kings; and that is, that they can no otherwiſe be kept within the rules of the law. Men are naturally propenſe to corruption; and if he, whoſe will and intereſt it is to corrupt them, be furniſhed with the means, he will never fail to do it. Power, honours, riches, and the pleaſures that attend them, are the baits by which men are drawn to prefer a perſonal intereſt before the public good; and the number of thoſe who covet them is ſo great, that he who abounds in them will be able to gain ſo many to his ſervice, as ſhall be ſufficient to ſubdue the reſt. It is hard to find a tyranny in the world that has not been introduced this way; for no man by his own ſtrength could ever ſubdue a multitude: none could ever bring many to be ſubſervient to his ill deſigns, but by the rewards they received or hoped. By theſe means Caeſar accompliſhed his work, and overthrew the liberty of his country, and with it all that was then good in the world. They who were corrupted in their minds deſired to put all the power and riches into his hands, that he might diſtribute them to ſuch as ſerved him. And he, who was nothing leſs than covetous in his own nature, deſired riches, that he might gain followers; and by the plunder of Gaul he corrupted thoſe that betrayed Rome to him. And though I do not delight to ſpeak of the affairs of our own time, I deſire thoſe who know the preſent ſtate of France to tell me, whether it were poſſible for the king to keep that nation under ſervitude, if a vaſt revenue did not enable him to gain ſo many to his particular ſervice, as are ſufficient to keep the reſt in ſubjection. And if this be not enough, let them conſider, whether all the dangers, that now threaten us at home, do not proceed from the madneſs of thoſe, who gave ſuch a revenue, as is utterly diſproportionable to the riches of the nation, unſuitable to the modeſt behaviour expected from our kings, and which in time will render parliaments unneceſſary to them.

On the other hand, the poverty and ſimplicity of the Spartan kings was no leſs ſafe and profitable to the people, than truly glorious to them. Ageſilaus denied that Artaxerxes was greater than he, unleſs he were more temperate, or more valiant; and he made good his words ſo well, that, without any other aſſiſtance than what his wiſdom and valour afforded, he ſtruck ſuch a terror into that great, rich, powerful, and abſolute monarch, that he did not think himſelf ſafe in Babylon or Ecbatane, till the poor Spartan was by a captain of as great valour, and greater poverty,

obliged

obliged to return from Aſia to the defence of his own country. This was not peculiar to the ſevere Laconic diſcipline. When the Roman kings were expelled, a few carts were prepared to tranſport their goods: and their lands, which were conſecrated to Mars, and now go under the name of Campus Martius, conſiſted of hardly ten acres of ground. Nay, the kings of Iſrael, who led ſuch vaſt armies into the field, that is, were followed by all the people who were able to bear arms, ſeem to have poſſeſſed little. Ahab, one of the moſt powerful, was ſo fond of Naboth's vineyard (which, being the inheritance of his fathers, according to their equal diviſion of lands, could not be above two acres) that he grew ſick when it was refuſed. SECT. 6

But, if an allowance is to be made to every king, it muſt be either according to an univerſal rule or ſtandard, or muſt depend upon the judgment of nations. If the firſt, they who have it, may do well to produce it; if the other, every nation, proceeding according to the meaſure of their own diſcretion, is free from blame.

It may alſo be worth obſervation, whether the revenue given to a king be in ſuch manner committed to his care, that he is obliged to employ it for the public ſervice without the power of alienation; or whether it be granted as a propriety, to be ſpent as he thinks fit. When ſome of the antient Jews and Chriſtians ſcrupled the payment of tribute to the emperors, the reaſons alleged to perſuade them to a compliance ſeem to be grounded upon a ſuppoſition of the firſt: for, ſaid they, the defence of the ſtate lies upon them, which cannot be performed without armies and garriſons: theſe cannot be maintained without pay, nor money raiſed to pay them without tributes and cuſtoms. This carries a face of reaſon with it, eſpecially in thoſe countries which are perpetually or frequently ſubject to invaſions: but this will not content our author. He ſpeaks of employing the revenue in keeping the king's houſe, and looks upon it as a propriety to be ſpent as he thinks convenient; which is no leſs than to caſt it into a pit, of which no man ever knew the bottom. That which is given one day, is ſquandered away the next: the people is always oppreſſed with impoſitions, to foment the vices of the court: theſe daily increaſing, they grow inſatiable; and the miſerable nations are compelled to hard labour, in order to ſatiate thoſe luſts that tend to their own ruin.

It may be conſidered, that the virtuous pagans, by the light of nature, diſcovered the truth of this *. Poverty grew odious in Rome, when great men, by deſiring riches, put a value upon them, and introduced that pomp and luxury which could not be borne by men of ſmall fortunes. From thence all furies and miſchiefs ſeemed to break looſe ‡. The baſe, ſlaviſh, and ſo often ſubdued Aſia, by the baſeſt of men revenged the defeats they had received from the braveſt; and by infuſing into them a

* ——— Saevior armis
Luxuria incubuit, victumque ulciſcitur orbem. Juv. Sat. 6, v. 291
‡ Nullum crimen abeſt, facinuſque libidinis, ex quo
Paupertas Romana perit. Ibid. v. 293

CHAP. III. delight in pomp and luxury, in a ſhort time rendered the ſtrongeſt and braveſt of nations the weakeſt and baſeſt. I wiſh our own experience did not too plainly manifeſt, that theſe evils were never more prevalent than in our days, when the luxury, majeſtic pomp, and abſolute power of a neighbouring king, muſt be ſupported by an abundance of riches, torn out of the bowels of his ſubjects, which renders them, in the beſt country of the world, and at a time when the crown moſt flouriſhes, the pooreſt and moſt miſerable of all the nations under the ſun. We too well know who are moſt apt to learn from them, and by what means and ſteps they endeavour to lead us into the like miſery. But the bird is ſafe when the ſnare is diſcovered; and if we are not abandoned by God to deſtruction, we ſhall never be brought to conſent to the ſettling of that pomp, which is againſt the practice of all virtuous people, and has brought all the nations that have been taken with it into the ruin that is intended for us.

SECTION VII

WHEN THE ISRAELITES ASKED FOR SUCH A KING AS THE NATIONS ABOUT THEM HAD, THEY ASKED FOR A TYRANT, THOUGH THEY DID NOT CALL HIM SO.

"Now that Saul was no tyrant," ſays our author, "note, that the peo-
"ple aſked a king, as all nations had. God anſwers, and bids Samuel
"to hear the voice of the people, in all things which they ſpake, and
"appoint them a king. They did not aſk a tyrant; and to give them a
"tyrant when they aſked a king, had not been to hear their voice in all
"things, but rather, when they aſked an egg, to have given them a ſcorpion;
"unleſs we will ſay, that all nations had tyrants." But before he drew ſuch a concluſion, he ſhould have obſerved, that God did not give them a ſcorpion when they aſked an egg, but told them, that was a ſcorpion which they called an egg. They would have a king to judge them, to go out before them, and to fight their battles; but God in effect told them, he would overthrow all juſtice, and turn the power that was given him, to the ruin of them, and their poſterity. But ſince they would have it ſo, he commanded Samuel to hearken to their voice, and for the puniſhment of their ſin and folly, to give them ſuch a king as they aſked, that is, one who would turn to his own profit, and their miſery, the power with which he ſhould be entruſted; and this truly denominates a tyrant. Ariſtotle makes no other diſtinction between a king and a tyrant, than that the king governs for the good of the people, the tyrant for his own pleaſure or profit*: and they who aſked ſuch a one, aſked a tyrant, though they

* Ὁ μεν γαρ τυραννος το εαυτῳ συμφερον σκοπει, ὁ δε βασιλευς το των αρχομενων. Ariſt. de Morib. l. 8, c. 12

called him a king. This is all that could be done in their language: for, as they who are ſkilled in the oriental tongues aſſure me, there is no name for a tyrant in any of them, or any other way of expreſſing the thing, than by circumlocution, and adding proud, inſolent, luſtful, cruel, violent, or the like epithets, to the word lord, or king. They did in effect aſk a tyrant: they would not have ſuch a king as God had ordained, but ſuch a one as the nations had. Not that all nations had tyrants; but thoſe who were round about them, of whom they had knowledge, and which in their manner of ſpeaking, went under the name of all, were bleſſed with ſuch maſters. This way of expreſſion was uſed by Lot's daughters, who ſaid, there was not a man in all the earth to come in to them *; becauſe there was none in the neighbourhood with whom it was thought fit they ſhould accompany. Now, that the eaſtern nations were then, and are ſtill, under the government of thoſe which all free people call tyrants, is evident to all men. God therefore, in giving them a tyrant, or rather a government, that would turn into tyranny, gave them what they aſked, under another name; and, without any blemiſh to the mercy promiſed to their fathers, ſuffered them to bear the penalty of their wickedneſs and folly in rejecting him, that he ſhould not reign over them. SECT. 7

But though the name of tyrant was unknown to them, yet in Greece, from whence the word comes, it ſignified no more than one who governed according to his own will, diſtinguiſhed from kings that governed by law; and was not taken in an ill ſenſe, till thoſe who had been advanced for their juſtice, wiſdom, and valour, or their deſcendents, were found to depart from the ends of their inſtitution, and to turn that power to the oppreſſion of the people, which had been given for their protection. But by theſe means it grew odious, and that kind of government came to be thought only tolerable by the baſeſt of men; and thoſe who deſtroyed it were in all places eſteemed to be the beſt.

If monarchy had been univerſally evil, God had not in the xvii of Deuteronomy given leave to the Iſraelites to ſet up a king; and if that kind of king had been aſked, he had not been diſpleaſed. And they could not have been ſaid to reject God, if they had not aſked that which was evil; for nothing that is good is contrary, or inconſiſtent with a people's obedience to him. The monarchy they aſked was diſpleaſing to God, it was therefore evil. But a tyrant is no more than an evil or corrupted monarch: the king therefore that they demanded was a tyrant. God, in granting one who would prove a tyrant, gave them what they aſked; and that they might know what they did, and what he would be, he told them they rejected him, and ſhould cry by reaſon of the king they deſired.

This denotes him to be a tyrant: for as the government of a king ought to be gentle and eaſy, tending to the good of the people, reſembling the tender care of a father to his family, if he who is ſet up to be a king,

* Gen. ch. 19, v. 31.

and

CHAP. III and to be like to that father, do lay a heavy yoke upon the people, and uſe them as ſlaves, and not as children, he muſt renounce all reſemblance of a father, and be accounted an enemy.

" But," ſays our author, " whereas the people's crying argues ſome " tyrannical oppreſſion, we may remember, that the people's cries are " not always an argument of their living under a tyrant. No man can " ſay Solomon was a tyrant, yet all the congregation complained, that " Solomon made their yoke grievous." It is ſtrange, that when children, nay, when whelps cry, it ſhould be accounted a mark that they are troubled, and that the cry of the whole people ſhould be none: or that the government, which is erected for their eaſe, ſhould not be eſteemed tyrannical, if it prove grievous to thoſe it ſhould relieve. But as I know no example of a people, that did generally complain without cauſe, our adverſaries muſt allege ſome other than that of Solomon, before I believe it of any. We are to ſpeak reverently of him: he was excellent in wiſdom; he built the temple, and God appeared twice to him. But it muſt be confeſſed, that during a great part of his life he acted directly contrary to the law given by God to kings; and that his ways were evil and oppreſſive to the people, if thoſe of God were good. Kings were forbidden to multiply horſes, wives, ſilver, and gold: but he brought together more ſilver and gold, and provided more horſes, wives, and concubines, than any man is known to have had. And though he did not actually return to Egypt, yet he introduced their abominable idolatry; and ſo far raiſed his heart above his brethren, that he made them ſubſervient to his pomp and glory. The people might probably be pleaſed with a great part of this: but when the yoke became grievous, and his fooliſh ſon would not render it more eaſy, they threw it off; and the thing being from the Lord, it was good, unleſs he be evil.

But as juſt governments are eſtabliſhed for the good of the governed, and the Iſraelites deſired a king, that it might be well with them, not with him, who was not yet known to them, that which exalts one, to the prejudice of thoſe that made him, muſt always be evil, and the people that ſuffers the prejudice muſt needs know it better than any other. He that denies this, may think the ſtate of France might have been beſt known from Bulion the late treaſurer, who, finding Lewis the thirteenth to be troubled at the peoples miſery, told him, they were too happy, ſince they were not reduced to eat graſs. But if words are to be underſtood as they are ordinarily uſed, and we have no other than that of " tyranny" to expreſs a monarchy that is either evil in the inſtitution, or fallen into corruption, we may juſtly call that " tyranny" which the Scripture calls a " grievous yoke," and which neither the old nor the new counſellors of Rehoboam could deny to be ſo. For though the firſt adviſed him to promiſe amendment, and the others to do worſe, yet all agreed, that what the people ſaid was true.

This yoke is always odious to ſuch as are not by natural ſtupidity and baſeneſs fitted for it; but thoſe who are ſo, never complain. An aſs will bear

bear a multitude of blows patiently; but the leaſt of them drives a lion into rage. He who ſaid, the rod is made for the back of fools, confeſſed that oppreſſion will make a wiſe man mad. And the moſt unnatural of all oppreſſions is to uſe lions like aſſes, and to lay that yoke upon a generous nation, which only the baſeſt can deſerve: and, for want of a better word, we call this tyranny. SECT. 7

Our author is not contented to vindicate Solomon only, but extends his indulgence to Saul. His cuſtom is to patronize all that is deteſtable; and no better teſtimony could be given of it. "It is true," ſays he, "Saul "loſt his kingdom, but not for being too cruel or tyrannical to his ſub-"jects, but for being too merciful to his enemies." But he alleges no other reaſon, than that the ſlaughter of the prieſts is not blamed*; not obſerving that the writers of the Scripture, in relating thoſe things that are known to be abominable by the light of nature, frequently ſay no more of them. And if this be not ſo, Lot's drunkenneſs and inceſt, Reuben's pollution of his father's bed, Abimelech's ſlaughter of his ſeventy brothers†, and many of the moſt wicked acts that ever were committed may paſs for laudable and innocent. But if Saul were not to be blamed for killing the prieſts, why was David blamed for the death of Uriah‡? why were the dogs to lick the blood of Ahab and Jezebel, if they did nothing more than kings might do without blame? Now, if the ſlaughter of one man was ſo ſeverely avenged upon the authors, and their families, none but ſuch as Filmer can think that of ſo many innocent men, with their wives and children, could eſcape unreproved or unpuniſhed. But the whole ſeries of the hiſtory of Saul ſhewing evidently, that his life and reign were full of the moſt violent cruelty and madneſs, we are to ſeek no other reaſon for the ruin threatened and brought upon him, and his family. And as thoſe princes who are moſt barbarouſly ſavage againſt their own people, are uſually moſt gentle to the enemies of their country, he could not give a more certain teſtimony of his hatred to thoſe he ought to have protected, than by preſerving thoſe nations, who were their moſt irreconcileable enemies. This is proved by reaſon, as well as by experience; for every man knows he cannot bear the hatred of all mankind: ſuch as know they have enemies abroad, endeavour to get friends at home: thoſe who command powerful nations, and are beloved by them, fear not to offend ſtrangers. But if they have rendered their own people

* And Saul ſaid unto the footmen that ſtood about him, Turn and ſlay the prieſts of the Lord; becauſe their hand is with David, and becauſe they knew when he fled, and did not ſhew it to me. But the ſervants of the king would not put forth their hand to fall upon the prieſts of the Lord. And the king ſaid to Doeg, Turn thou, and fall upon the prieſts; and Doeg turned, and fell upon them, and ſlew on that day fourſcore and five perſons that did wear a linen ephod. And Nob, the city of the prieſts, ſmote he with the edge of the ſword, both men and women, children and ſucklings, and oxen, and aſſes, and ſheep, with the edge of the ſword. 1 Sam. ch. 22, v. 17—19.

† Abimelech, the baſtard ſon of Gideon, ſlew his ſeventy brothers, in order to obtain the government of Sechem. Jud. ch. 9, v. 5.

‡ Thou haſt killed Uriah with the ſword of the children of Ammon: now therefore the ſword ſhall never depart from thy houſe. 2 Sam. ch. 12, v. 9, 10.

enemies

CHAP. III enemies to them, they cannot hope for help in a time of diſtreſs, nor ſo much as a place of retreat or refuge, unleſs from ſtrangers; nor from them, unleſs they deſerve it by favouring them to the prejudice of their own country. As no man can ſerve two maſters, no man can purſue two contrary intereſts. Moſes, Joſhua, Gideon, and Samuel, were ſevere to the Amorites, Midianites, and Canaanites, but mild and gentle to the Hebrews. Saul, who was cruel to the Hebrews, ſpared the Amalekites, whoſe preſervation was their deſtruction. And whilſt he deſtroyed thoſe he ſhould have ſaved, and ſaved thoſe, that by a general and particular command of God he ſhould have deſtroyed, he loſt his ill-governed kingdom, and left an example to poſterity of the end that may be expected from pride, folly, and tyranny.

The matter would not be much altered, if I ſhould confeſs, that, in the time of Saul, all nations were governed by tyrants (though it is not true, for Greece did then flouriſh in liberty, and we have reaſon to believe, that other nations did ſo alſo); for though they might not think of a good government at the firſt, nothing can oblige men to continue under one that is bad, when they diſcover the evils of it, and know how to mend it. They who truſted men, that appeared to have great virtues, with ſuch a power as might eaſily be turned into tyranny, might juſtly retract, limit, or aboliſh it, when they found it to be abuſed. And though no condition had been reſerved, the public good, which is the end of all government *, had been ſufficient to abrogate all that ſhould tend to the contrary. As the malice of men, and their inventions to do miſchief, increaſe daily, all would ſoon be brought under the power of the worſt, if care were not taken, and opportunities embraced, to find new ways of preventing it. He that ſhould make war at this day, as the beſt commanders did two hundred years paſt, would be beaten by the meaneſt ſoldier. The places then accounted impregnable are now ſlighted as indefenſible; and if the arts of defending were not improved as well as thoſe of aſſaulting, none would be able to hold out a day. Men were ſent into the world rude and ignorant, and if they might not have uſed their natural faculties to find out that which is good for themſelves, all muſt have been condemned to continue in the ignorance of our firſt fathers, and to make no uſe of their underſtanding to the ends for which it was given.

The beſtial barbarity in which many nations, eſpecially of Africa, America, and Aſia, now live, ſhews what human nature is, if it be not improved by art and diſcipline; and if the firſt errors, committed through ignorance, might not be corrected, all would be obliged to continue in them; and for any thing I know, we muſt return to the religion, manners, and policy, that were found in our country at Caeſar's landing. To affirm this is no leſs than to deſtroy all that is commendable in the world; and to render the underſtanding given to men utterly uſeleſs. But if it be lawful for us, by the uſe of that underſtanding, to build houſes, ſhips,

* Salus populi ſuprema lex. Cic. de Leg. l. 3, § 3

and

and forts, better than our anceſtors, to make ſuch arms as are moſt fit for our defence, and to invent printing, with an infinite number of other arts beneficial to mankind, why have we not the ſame right in matters of government, upon which all others do almoſt abſolutely depend? If men are not obliged to live in caves, and hollow trees, to eat acorns, and to go naked, why ſhould they be for ever obliged to continue under the ſame form of government, that their anceſtors happened to ſet up in the time of their ignorance? Or if they were not ſo ignorant as to ſet up one that was not good enough for the age in which they lived, why ſhould it not be altered, when tricks are found out to turn that to the prejudice of nations, which was erected for their good? From whence ſhould malice and wickedneſs gain a privilege of putting new inventions to do miſchief every day into practice? and who is it that ſo far protects them, as to forbid good and innocent men to find new ways alſo of defending themſelves? If there be any that do this, they muſt be ſuch as live in the ſame principle; who, while they pretend to exerciſe juſtice, provide only for the indemnity of their own crimes, and the advancement of unjuſt deſigns. They would have a right of attacking us, with all the advantages of the arms now in uſe, and the arts, which by the practice of ſo many ages have been wonderfully refined, whilſt we ſhould be obliged to employ no others in our juſt defence, than ſuch as were known to our naked anceſtors, when Caeſar invaded them, or to the Indians, when they fell under the dominion of the Spaniards. This would be a compendious way of placing uncontrouled iniquity in all the kingdoms of the world, and of overthrowing all that deſerves the name of good, by the introduction of ſuch accurſed maxims. But if no man dares to acknowledge any ſuch, except thoſe whoſe acknowledgement is a diſcredit, we ought not to ſuffer them to be obliquely obtruded upon us, nor to think, that God has ſo far abandoned us into the hands of our enemies, as not to leave us the liberty of uſing the ſame arms in our defence, which they do to offend and injure us. SECT. 7

We ſhall be told, that prayers and tears were the only arms of the firſt Chriſtians, and that Chriſt commanded his diſciples to pray for thoſe that perſecuted them. But beſides, that thoſe precepts of the moſt extreme lenity do ill ſuit with the violent practices of thoſe who attempt to enſlave nations, and who, by alleging them, do plainly ſhew, either that they do not extend to all Chriſtians, or that they themſelves are none, while they act contrary to them, they are to know, that thoſe precepts were merely temporary, and directed to the perſons of the apoſtles, who were armed only with the ſword of the ſpirit; that the primitive Chriſtians uſed prayers and tears only no longer, than while they had no other arms. But knowing, that by liſting themſelves under the enſigns of Chriſtianity they had not loſt the rights belonging to all mankind, when nations came to be converted, they no way thought themſelves obliged to give their enemies a certain opportunity of deſtroying them, when God had put means into their hands of defending themſelves; and proceeded ſo far in this way, that the Chriſtian valour ſoon became no leſs famous and

CHAP. III remarkable than that of the pagans. They did with the utmoſt vigour defend both their civil and religious rights againſt all the powers of earth and hell, who by force and fraud endeavoured to deſtroy them.

SECTION VIII

UNDER THE NAME OF TRIBUTE NO MORE IS UNDERSTOOD, THAN WHAT THE LAW OF EACH NATION GIVES TO THE SUPREME MAGISTRATE FOR THE DEFRAYING OF PUBLIC CHARGES; TO WHICH THE CUSTOMS OF THE ROMANS, OR SUFFERINGS OF THE JEWS, HAVE NO RELATION.

" If any deſire the directions of the New Teſtament, " ſays our author, " he may find our Saviour limiting and diſtinguiſhing royal power, by " giving to Caeſar thoſe things that were Caeſar's, and to God the things " that were God's." But that will be of no advantage to him in this conteſt. We do not deny to any man, that which is his due; but do not ſo well know who is Caeſar, nor what it is that can truely be ſaid to be due to him. I grant, that when thoſe words were ſpoken, the power of the Romans, exerciſed by Tiberius, was then expreſſed by the name of Caeſar, which he without any title had aſſumed. The Jews, among many other nations, having been ſubdued, ſubmitted to it; and, being no way competent judges of the rights belonging to the ſenate or people of Rome, were obliged to acknowledge that power which their maſters were under. They had no commonwealth of their own, nor any other government among themſelves, that was not precarious. They thought Chriſt was to have reſtored their kingdom, and by them to have reigned over the nations: but he ſhewed them they were to be ſubject to the Gentiles, and that within few years their city and temple ſhould be deſtroyed. Their commonwealth muſt needs expire, when all that was prefigured by it was accompliſhed. It was not for them at ſuch a time to preſume upon their abrogated privileges, nor the promiſes made to them, which were then fulfilled. Nay, they had by their ſins profaned themſelves, and given to the Gentiles a right over them, which none could have had, if they had continued in their obedience to the law of God. This was the foundation of the Caeſars dominion over them, but can have no influence upon us. The firſt of the Caeſars had not been ſet up by them; the ſeries of them had not been continued by their conſent; they had not interrupted the ſucceſſion by placing or diſplacing ſuch as they pleaſed; they had not brought in ſtrangers or baſtards, nor preferred the remoteſt in blood before the neareſt; they had no part in making the laws, by which they were governed, nor had the Caeſars ſworn to them; they had no " great " charter, " acknowledging their liberties to be innate or inherent in them, confirmed by immemorial cuſtom, and ſtrengthened by thirty acts of their

their own general aſſemblies, with the aſſent of the Romans; the Caeſar who then governed came not to the power by their conſent; the queſtion, "will ye have this man to reign?" had never been aſked; but he being impoſed upon them, they were to ſubmit to the laws, by which he governed their maſters. This can be nothing to us, whoſe caſe is in every reſpect moſt unlike to theirs. We have no dictatorial power over us; and neither we nor our fathers have rendered or owed obedience to any human laws, but our own, nor to any other magiſtracy, than what we have eſtabliſhed. We have a king who reigns by law. His power is from "the law that makes him king*:" and we can know only from thence what he is to command, and what we are obliged to obey. We know the power of the Caeſars was uſurped, maintained, and exerciſed, with the moſt deteſtable violence, injuſtice, and cruelty. But though it had been eſtabliſhed by the conſent of the Romans, from an opinion that it was good for them in that ſtate of affairs, it were nothing to us; and we could be no more obliged to follow their example in that, than to be governed by conſuls, tribunes, and decemviri, or to conſtitute ſuch a government as they ſet up, when they expelled their kings. Their authority was as good at one time as at the other: or if a difference ought to be made, the preference is to be given to what they did when their manners were moſt pure, the people moſt free, and when virtue was moſt flouriſhing among them. But if we are not obliged to ſet up ſuch a magiſtracy as they had, it is ridiculous to think, that ſuch an obedience is due to one who is not in being, as they paid to him that was. And if I ſhould confeſs, that Caeſar, holding the ſenate and people of Rome under the power of the ſword, impoſed what tribute he pleaſed upon the provinces; and that the Jews, who had no part in the government, were obliged to ſubmit to his will, our liberty of paying nothing, except what the parliament appoints, and yielding obedience to no laws, but ſuch as are made to be ſo by their authority, or by our own immemorial cuſtoms, could not be thereby infringed. But we may juſtly affirm, that the tribute impoſed was not, as our author infers, "all their coin," nor a conſiderable part of it, nor more than what was underſtood to go for the defraying of the public charges. Chriſt by aſking, whoſe image and ſuperſcription was ſtampt upon their money, and thereupon commanding them to give to Caeſar that which was Caeſar's, did not imply, that all was his; but that Caeſar's money being current among them, it was a continual and evident teſtimony, that they acknowledged themſelves to be under his juriſdiction, and therefore could not refuſe to pay the tribute laid upon them by the ſame authority, as other nations did. SECT. 8

It may alſo be obſerved, that Chriſt did not ſo much ſay this to determine the queſtions, that might ariſe, concerning Caeſar's power, for he

* Lex facit regem. Bracton de Leg. et Conſuet. Angliae. l. 1, c. 8, fol. 5. — Nihil tam proprium eſt imperii, quàm legibus vivere, et majus imperio eſt legibus ſubmittere principa:um, et meritò debet retribuere legi, quia lex tribuit ei; facit enim lex quòd ipſe ſit rex. Ibid. l. 3, c. 9, fol. 107

CHAP. III plainly ſays, that was not his work, but to put the Phariſees to ſilence, who tempted him. According to the opinion of the Jews, that the Meſſias would reſtore the kingdom of Iſrael, they thought his firſt work would be to throw off the Roman yoke; and not believing him to be the man, they would have brought him to avow the thing, that they might deſtroy him. But as that was not his buſineſs and his time was not yet come, it was not neceſſary to give them any other anſwer, than ſuch as might diſappoint their purpoſe. This ſhews that, without detracting from the honour due to Auſtin, Ambroſe, or Tertullian, I may juſtly ſay, that the deciſion of ſuch queſtions, as ariſe concerning our government, muſt be decided by our laws, and not by their writings. They were excellent men, but living in another time, under a very different government, and applying themſelves to other matters, they had no knowledge at all of thoſe that concern us. They knew what government they were under, and thereupon judged what a broken and diſperſed people owed to that which had given law to the beſt part of the world, before they were in being, under which they had been educated, and which, after a moſt cruel perſecution, was become propitious to them. They knew, that the word of the emperor was a law to the ſenate and people, who were under the power of that man that could get the beſt army; but perhaps had never heard of ſuch mixed governments as ours, though about that time they began to appear in the world. And it might be as reaſonably concluded, that there ought to be no rule in the ſucceſſion or election of princes, becauſe the Roman emperors were ſet up by the violence of the ſoldiers, and for the moſt part, by the ſlaughter of him who was in poſſeſſion of the power, as that all other princes muſt be abſolute when they have it, and do what they pleaſe, till another ſtronger and happier may, by the like means, wreſt the ſame power from them.

I am much miſtaken if this be not true: but without prejudice to our cauſe, we may take that which they ſay, according to their true meaning, in the utmoſt extent. And to begin with Tertullian: it is good to conſider the ſubject of his diſcourſe, and to whom he wrote. The treatiſe cited by our author is the Apologetic, and tends to perſuade the pagans, that civil magiſtrates might not intermeddle with religion; and that the laws made by them touching thoſe matters, were of no value, as relating to things of which they had no cognizance. "It is not," ſays he, "length of "time, nor the dignity of the legiſlators, but equity only, that can com- "mend laws; and when any are found to be unjuſt, they are deſervedly "condemned *." By which words he denied, that the magiſtratical power, which the Romans acknowledged in Caeſar, had any thing to do in ſpiritual things. And little advantage can be taken by Chriſtian princes from what he ſays concerning the Roman emperors; for he expreſly declares, "that the Caeſars would have believed in Chriſt, if

* Leges neque annorum numerus, neque conditorum dignitas commendat, ſed aequitas ſola; et ideo, cùm iniquae recognoſcuntur, meritò damnantur. Tertul. Apol. p. 6, Edit. Rigaltii, 1664.

"they

" they had either not been neceſſary to the ſecular government, or if SECT. 8
" Chriſtians might have been Caeſars *." This ſeems to have proceeded from an opinion received by Chriſtians in the firſt ages, that the uſe of the civil as well as the military ſword was equally accurſed; that, " Chriſtians were to be ſons of peace, enemies to no man; and that Chriſt, " by commanding Peter to put up his ſword, did for ever diſarm all " Chriſtians †." He proceeds to ſay, " we cannot fight to defend our " goods, having in our baptiſm renounced the world, and all that is " in it; nor to gain honours, accounting nothing more foreign to us than " public affairs, and acknowledging no other commonwealth than that of " the whole world ‡; nor to ſave our lives, becauſe we account it a hap- " pineſs to be killed." He diſſuades the pagans from executing Chriſtians, rather from charity to them in keeping them from the crime of ſlaughtering the innocent, than that they were unwilling to ſuffer; and gives no other reaſons of their prayers for the emperors, than that they were commanded to love their enemies §, and to pray for thoſe who perſecuted them, except ſuch as he drew from a miſtake, that the world was ſhortly to finiſh with the diſſolution of the empire. All his works, as well thoſe that were written before he fell into Montaniſm, as thoſe publiſhed afterwards, are full of the like opinions; and if Filmer acknowledges them to be true, he muſt confeſs, that princes are not fathers, but enemies ¶; and that not only they, but all thoſe who render themſelves miniſters of the powers they execute, in taking upon them the ſword that Chriſt had curſed, do renounce him; and we may conſider how to proceed with ſuch as do ſo. If our author will not acknowledge this, then no man was ever guilty of a more vile prevarication than he, who alleges thoſe words in favour of his cauſe, which have their only ſtrength in opinions that he thinks falſe, and in the authority of a man whom in that very thing he condemns; and muſt do ſo, or overthrow all that he endeavours to ſupport. But Tertullian's opinions concerning theſe matters have no relation to our preſent queſtion. The deſign of his Apology, and the treatiſe to Scapula, almoſt upon the ſame ſubject, was to ſhew, that the civil magiſtracy, which he comprehends under the name of Caeſar, had nothing to do with matters of religion; and that, as no man could be a Chriſtian who would undertake the work of a magiſtrate, they, who were jealous the public offices might be taken out of their hands, had nothing to fear from Chriſ-

* Sed et Caeſares credidiſſent ſuper Chriſto, ſi aut Caeſares non eſſent ſaeculo neceſſarii, aut ſi et Chriſtiani potuiſſent eſſe Caeſares. Ibid. p. 20

† Filii pacis . . . . . Chriſtianus nullius eſt hoſtis. Id. ad Scapulam, p. 69. ——— Omnem poſteà militem Dominus in Petro exarmando diſcinxit. De Idol. p. 97

‡ Nobis ab omni gloriae et dignitatis ardore frigentibus nulla eſt neceſſitas coetûs; nec ulla magis res aliena, quam publica: unam omnium rempublicam agnoſcimus, mundum. Apol. p. 30

§ Scitote praeceptum eſſe nobis, ad redundantiam benignitatis, etiam pro inimicis Deum orare, et perſecutoribus noſtris bona precari. Apol. p. 27

¶ Qui magis inimici et perſecutores Chriſtianorum, quàm de quorum majeſtate convenimur in crimen? Ibid. p. 27

tians

CHAP. III tians who reſolved not to meddle with them. Whereas our queſtion is only, whether that magiſtratical power, which, by law or uſurpation, was then in Caeſar, muſt neceſſarily in all times, and in all places, be in one man, or may be divided and balanced according to the laws of every country, concerning which he ſays nothing: or whether we, who do not renounce the uſe of the civil or military ſword, who have a part in the government, and think it our duty to apply ourſelves to public cares, ſhould lay them aſide, becauſe the antient Chriſtians, every hour expecting death, did not trouble themſelves with them.

If Ambroſe, after he was a biſhop, employed the ferocity of a ſoldier, which he ſtill retained, rather in advancing the power of the clergy, than the good of mankind, by reſtraining the rage of tyrants, it can be no prejudice to our cauſe, of which he had no cognizance. He ſpoke of the violent and deſpotical government, to which he had been a miniſter before his baptiſm, and ſeems to have had no knowledge of the Gothic polity, that within a few years grew famous by overthrowing the Roman tyranny, and delivering the world from the yoke which it could no longer bear. And if Auſtin might ſay, that "the emperor is ſubject to no laws, becauſe "he has a power of making laws *," I may juſtly ſay, that our kings are ſubject to laws, becauſe they can make no law, and have no power but what is given by the laws. If this be not the caſe, I deſire to know who made the laws, to which they and their predeceſſors have ſworn; and whether they can, according to their own will, abrogate thoſe antient laws, by which they are made to be what they are, and by which we enjoy what we have; or whether they can make new laws by their own power? If no man but our author have impudence enough to aſſert any ſuch thing, and if all the kings we ever had, except Richard *the ſecond*, did renounce it, we may conclude, that Auſtin's words have no relation to our diſpute; and that it were to no purpoſe to examine, whether the fathers mention any reſervation of power to the laws of the land, or to the people, it being as lawful for all nations, if they think fit, to frame governments different from thoſe that were then in being, as to build baſtions, half-moons, hornworks, ravelins, or counterſcarps, or to make uſe of muſquets, cannon, mortars, carabines, or piſtols, which were unknown to them.

What Solomon ſays of the Hebrew kings does as little concern us. We have already proved their power not to have been abſolute, though greater than that which the law allows to ours. It might, upon occaſion, be a prudent advice to private perſons living under ſuch governments as were uſual in the eaſtern countries, "to keep the king's commandments, "and not to ſay, what doſt thou? becauſe where the word of a king is, "there is power, and all that he pleaſeth he will do." But all theſe words are not his; and thoſe that are, muſt not be taken in a general ſenſe. For though his ſon was a king, yet in his words there was no

* Imperator non eſt ſubjectus legibus, qui habet in poteſtate alias leges ferre. Auguſt. * * *

power:

power: he could not do what he pleaſed, nor hinder others from doing what they pleaſed. He would have added weight to the yoke that lay upon the necks of the Iſraelites, but he could not; and we do not find him to have been maſter of much more than his own tongue, to ſpeak as many fooliſh things as he pleaſed. In other things, whether he had to deal with his own people, or with ſtrangers, he was weak and impotent; and the wretches who flattered him in his follies could be of no help to him. The like has befallen many others. Thoſe who are wiſe, virtuous, valiant, juſt, and lovers of their people, have and ought to have power; but ſuch as are lewd, vicious, fooliſh, and haters of their people, ought to have none, and are often deprived of all. This was well known to Solomon, who ſays, that "a wiſe child is better than an old and fooliſh king, "that will not be adviſed." When Nabuchodonoſor ſet himſelf in the place of God, his kingdom was taken from him, and he was driven from the ſociety of men to herd with beaſts. *There was power for a time in the word of Nero: he murdered many excellent men; but he was called to account, and the world abandoned the monſter it had too long endured. He found none to defend him, nor any better help, when he deſired to die, than the hand of a ſlave. Beſides, ſome kings by their inſtitution have little power; ſome have been deprived of what they had, for abuſing, or rendering themſelves unworthy of it; and hiſtory affords us innumerable examples of both ſorts. SECT. 8

But though I ſhould confeſs that there is always power in the word of a king, it would be nothing to us, who diſpute concerning right, and have no regard to that power which is void of it. A thief or a pirate may have power; but that avails him not, when, as often befel the Caeſars, he meets with one who has more, and is always unſafe, ſince, having no effect upon the conſciences of men, every one may deſtroy him that can: and I leave it to kings to conſider how much they ſtand obliged to thoſe, who, placing their rights upon the ſame foot, expoſe their perſons to the ſame dangers.

But if kings deſire, that in their word there ſhould be power, let them take care, that it be always accompanied with truth and juſtice. Let them ſeek the good of their people, and the hands of all good men will be with them. Let them not exalt themſelves inſolently, and every one will deſire to exalt them. Let them acknowledge themſelves to be the ſervants of the public, and all men will be theirs. Let ſuch as are moſt addicted to them talk no more of Caeſars, nor the tributes due to them. We have nothing to do with the name of Caeſar. They, who at this day live under it, reject the prerogatives antiently uſurped by thoſe who had it, and are governed by no other laws than their own. We know no law to which we owe obedience, but that of God, and ourſelves. Aſiatic ſlaves uſually pay ſuch tributes as are impoſed upon them; and whilſt braver nations lay under the Roman tyranny, they were forced to ſubmit to the ſame burdens. But even thoſe tributes were paid for maintaining armies, fleets, and garriſons, without which the poor and abject life they led could

CHAP. III not have been preſerved. We owe none but what we freely give. None is or can be impoſed upon us, unleſs by ourſelves. We meaſure our grants according to our own will, or the preſent occaſions, for our own ſafety. Our anceſtors were born free, and, as the beſt proviſion they could make for us, they left us that liberty entire, with the beſt laws they could deviſe to defend it. It is no way impaired by the opinions of the fathers. The words of Solomon do rather confirm it. The happineſs of thoſe who enjoy the like, and the ſhameful miſery under which they lie, who have ſuffered themſelves to be forced or cheated out of it, may perſuade, and the juſtice of the cauſe encourage us, to think nothing too dear to be hazarded in the defence of it.

SECTION IX

OUR OWN LAWS CONFIRM TO US THE ENJOYMENT OF OUR NATIVE RIGHTS.

If that which our author calls divinity did reach the things in diſpute between us, or if the opinions of the fathers, which he alleges, related to them, he might have ſpared the pains of examining our laws; for a municipal ſanction were of little force to confirm a perpetual and univerſal law given by God to mankind, and of no value againſt it, ſince man cannot abrogate what God has inſtituted, nor one nation free itſelf from a law that is given to all. But having abuſed the Scriptures, and the writings of the fathers (whoſe opinions are to be valued only ſo far as they rightly interpret them) he ſeems deſirous to try, whether he can as well put a falſe ſenſe upon our law, and has fully compaſſed his deſign. According to his cuſtom he takes pieces of paſſages from good books, and turns them directly againſt the plain meaning of the authors, expreſſed in the whoſe ſcope and deſign of their writings. To ſhew that he intends to ſpare none, he is not aſhamed to cite Bracton, who, of all our antient law-writers, is moſt oppoſite to his maxims. He lived, ſays he, in Henry the third's time, ſince parliaments were inſtituted: as if there had been a time when England had wanted them; or the eſtabliſhment of our liberty had been made by the Normans, who, if we will believe our author, came in by force of arms, and oppreſſed us. But we have already proved the eſſence of parliaments to be as antient as our nation, and that there was no time, in which there were not ſuch councils or aſſemblies of the people as had the power of the whole, and made or unmade ſuch laws as beſt pleaſed themſelves. We have indeed a French word from a people that came from France, but the power was always in ourſelves; and the Norman kings were obliged to ſwear they would govern according to the laws that had been made by thoſe aſſemblies. It imports little, whether Bracton lived before or after they came among us. His words are,

" Omnes

" Omnes ſub eo, et ipſe ſub nullo, niſi tantùm ſub Deo; all are under SECT. 9
" him, and he under none, but God only. If he offend, ſince no writ
" can go againſt him, their remedy is, by petitioning him to amend his
" fault; which if he ſhall not do, it will be puniſhment ſufficient for
" him to expect God as a revenger. Let none preſume to ſearch into his
" deeds, much leſs to oppoſe them*." Here is a mixture of ſenſe and nonſenſe, truth and falſhood, the words of Bracton, with our author's fooliſh inferences from them. Bracton ſpoke of the politic capacity of the king, when no law had forbidden him to divide it from his natural. He gave the name of king to the ſovereign power of the nation, as Jacob called that of his deſcendants the ſceptre; which he ſaid ſhould not depart from Judah till Shiloh came, though all men know, that his race did not reign the third part of that time over his own tribe, nor full fourſcore years over the whole nation. The ſame manner of ſpeech is uſed in all parts of the world. Tertullian, under the name of Caeſar, comprehended all magiſtratical power, and imputed to him the acts, of which in his perſon he never had any knowledge. The French ſay, their king is always preſent, " ſur ſon lit de juſtice," in all the ſovereign courts of the kingdom, which are not eaſily numbered; and that maxim could have in it neither ſenſe nor truth, if by it they meant a man, who can be but in one place at one time, and is always comprehended within the dimenſions of his own ſkin. Theſe things could not be unknown to Bracton, the like being in uſe among us; and he thought it no offence ſo far to follow the dictates of reaſon prohibited by no law, as to make a difference between the inviſible and omnipreſent king, who never dies, and the perſon that wears the crown, whom no man, without the guilt of treaſon, may endeavour to kill, ſince there is an act of parliament in the caſe. I will not determine whether he ſpoke properly or no as to England; but if he did not, all that he ſaid, being upon a falſe ſuppoſition, is nothing to our purpoſe. The ſame Bracton ſays, the king does no wrong, inaſmuch as he does nothing but by law: " the power of the king is the power of the
" law, a power of right not of wrong †." Again, " if the king does
" injuſtice, he is not king." In another place he has theſe words, " the
" king therefore ought to exerciſe the power of the law, as becomes
" the vicar and miniſter of God upon earth, becauſe that power is the
" power of God alone; but the power of doing wrong is the power of
" the devil, and not of God. And the king is his miniſter, whoſe work
" he does: whilſt he does juſtice, he is the vicar of the eternal king;

* Omnes quidem ſub eo [rege] et ipſe ſub nullo, niſi tantùm ſub Deo . . . . Si jus ab eo petatur, cùm breve non currat contra ipſum, locus erit ſupplicationi, quòd factum ſuum corrigat et emendet, quod quidem ſi non fecerit, ſatis ſufficit ei ad poenam, quòd Dominum expectet ultorem. Nemo quidem de factis ſuis praeſumat diſputare, multò fortiùs contra factum ſuum venire. Bracton. l. 1, c. 8, fol. 5. —— Our author ſeems not to have obſerved, that the words which he cites from Filmer, and which he calls his " fooliſh infe-
" rences," are the documents of old Bracton, in the paſſage before us, which Filmer has tranſlated.

† Nihil aliud poteſt rex in terris, cùm ſit Dei miniſter et vicarius, niſi id ſolum quod de jure poteſt. . . . . Poteſtas ſua juris eſt, et non injuriae. Bract. l. 2, c. 9, fol. 107

CHAP. III

" but if he deflect from it to act unjuſtly, he is the miniſter of the devil *." He alſo ſays, that the king is, " ſingulis major, univerſis minor;" and that he who is, " in juſtitiâ exequendâ omnibus major, in juſtitiâ recipi- " endâ cuilibet ex plebe ſit aequalis †." I ſhall not ſay Bracton is in the right when he ſpeaks in this manner; but it is a ſtrange impudence in Filmer to cite him as a patron of the abſolute power of kings, who does ſo extremely depreſs them. But the groſſeſt of his follies is yet more pardonable than his deteſtable fraud in falſifying Bracton's words, and leaving out ſuch as are not for his purpoſe, which ſhew his meaning to be directly contrary to the ſenſe put upon them. That this may appear, I ſhall ſet down the words as they are found in Bracton. " Ipſe autem rex non " debet eſſe ſub homine, ſed ſub Deo, et ſub lege, quia lex facit regem. " Attribuat ergo lex regi quod lex attribuit ei, videlicet dominationem et " poteſtatem: non eſt enim rex ubi dominatur voluntas et non lex; et " quòd ſub lege eſſe debeat, cùm ſit Dei vicarius, evidenter apparet ‡." If Bracton therefore be a competent judge, the king is under the law, and he is not a king, nor God's vicegerent, unleſs he be ſo; and we all know how to proceed with thoſe, who, being under the law, offend againſt it: for the law is not made in vain. In this caſe ſomething more is to be done than petitioning: and it is ridiculous to ſay, that if " he will not " amend, it is puniſhment enough for him to expect God an avenger;" for the ſame may be ſaid of all malefactors. God can ſufficiently puniſh thieves and murderers: but the future judgment, of which perhaps they have no belief, is not ſufficient to reſtrain them from committing more crimes, nor to deter others from following their example. God was always able to puniſh murderers, but yet by his law he commands man to ſhed the blood of him who ſhould ſhed man's blood; and declares, that the land cannot be purged of the guilt by any other means. He had judgments in ſtore for Jeroboam, Ahab, and thoſe that were like them; but yet he commanded that, according to that law, their houſes ſhould be deſtroyed from the earth. The dogs licked up the blood of Ahab, where they had licked that of Naboth, and eat Jezebel, who had contrived his murder. " But," ſays our author, " we muſt not look into his deeds, " much leſs oppoſe them." Muſt not David look into Saul's deeds, nor oppoſe them? Why did he then bring together as many men as he could

* Exercere igitur debet rex poteſtatem juris, ſicut Dei vicarius et miniſter in terrâ, quia illa poteſtas ſolius Dei eſt: poteſtas autem injuriae diaboli et non Dei; et cujus horum opera fecerit rex, ejus miniſter erit. Igitur dum facit juſtitiam, vicarius eſt Regis aeterni; miniſter autem diaboli, dum declinet ad injuriam. Ibid. l. 3, c. 9, fol. 107

† Parem habere non debet, nec multò fortiùs ſuperiorem, maximè in juſtitiâ exhibendâ, ut dicatur verè de eo magnus dominus noſter, et magna virtus ejus, etc. Licèt in juſtitiâ recipiendâ minimo de regno ſuo comparetur; et licèt omnes potentiâ praecellat, tamen, cùm cor regis in manu Dei eſſe debeat, ne ſit effraenata, fraenum apponat temperantiae, et lora moderantiae, ne cùm ineffraenata ſit trahatur ad injuriam. Ibid. l. 3, c. 9, fol. 107. — Sic ergò rex, ne poteſtas ſua maneat infraenata, non debet eſſe major eo in regno ſuo in exhibitione juris, minimus autem eſſe debet vel quaſi in judicio ſuſcipiendo, ſi petat, etc. Ibid. l. 1, c. 8, fol. 5

‡ Ibid. l. 1, c. 8, fol. 5

to

to oppoſe, and make foreign alliances againſt him, even with the Moabites, and the accurſed Philiſtines? Why did Jehu not only deſtroy Ahab's houſe, but kill the king of Judah, and his forty brothers, only for going to viſit his children? Our author may perhaps ſay, becauſe God commanded them. But if God commanded them to do ſo, he did not command them, and all mankind, not to do ſo; and if he did not forbid, they have nothing to reſtrain them from doing the like, unleſs they have made municipal laws of their own to the contrary, which our author and his followers may produce when they can find them. SECT. 9

His next work is, to go back again to the tribute paid by Chriſt to Caeſar, and judiciouſly to infer, that all nations muſt pay the ſame duty to their magiſtrates, as the Jews did to the Romans, who had ſubdued them. "Chriſt did not," ſays he, "aſk what the law of the land was, "nor inquire whether there was a ſtatute againſt it, nor whether the tribute "were given by the conſent of the people, but upon ſight of the ſuper-"ſcription concluded, etc." It had been ſtrange, if Chriſt had inquired after their laws, ſtatutes, or conſent, when he knew, that their commonwealth, with all the laws by which it had ſubſiſted, was aboliſhed; and that Iſrael was become a ſervant to thoſe, who exerciſed a moſt violent domination over them: which, being a peculiar puniſhment for their peculiar ſins, can have no influence upon nations, that are not under the ſame circumſtances.

But of all that he ſays, nothing is more incomprehenſible, than what he can mean by lawful kings, to whom all is due that was due to the Roman uſurpers. For lawful kings are kings by the law: in being kings by the law, they are ſuch kings as the law makes them, and that law only muſt tell us what is due to them: or by an univerſal patriarchal right, to which no man can have a title, as is ſaid before, till he prove himſelf to be the right heir of Noah. If neither of theſe are to be regarded, but right follows poſſeſſion, there is no ſuch thing as an uſurper; he who has the power has the right, as indeed Filmer ſays; and his wiſdom, as well as his integrity, is ſufficiently declared by the aſſertion.

This wicked extravagancy is followed by an attempt of as ſingular ignorance and ſtupidity, to ſhuffle together uſurpers and conquerors, as if they were the ſame: whereas, there have been many uſurpers, who were not conquerors, and conquerors, that deſerved not the name of uſurpers. No wiſe man ever ſaid, that Agathocles or Dionyſius conquered Syracuſe; Tarquin, Galba, or Otho, Rome; Cromwell, England; or that the magi, who ſeized the government of Perſia, after the death of Cambyſes, conquered that country. When Moſes and Joſhua had overthrown the kingdoms of the Amorites, Moabites, and Canaanites; or when David ſubdued the Ammonites, Edomites, and others, none, as I ſuppoſe, but ſuch divines as Filmer, will ſay they uſurped a dominion over them. There is ſuch a thing among men as juſt war, or elſe true valour could not be a virtue, but a crime; and inſtead of glory, the utmoſt infamy would always be the companion of victory. There are, ſays Grotius, laws of

CHAP. III war, as well as of peace *. He who for a juſt cauſe, and by juſt means, carries on a juſt war, has as clear a right to what is acquired as can be enjoyed by man; but all uſurpation is deteſtable and abominable.

SECTION X

THE WORDS OF ST. PAUL, INJOINING OBEDIENCE TO HIGHER POWERS, FAVOUR ALL SORTS OF GOVERNMENTS, NO LESS THAN MONARCHY.

Our author's next quarrel is with St. Paul, "who did not," as he ſays, "in injoining ſubjection to the higher powers, ſignify the laws of the "land, or mean the higheſt powers, as well ariſtocratical and democratical "as regal, but a monarch that carries the ſword, etc." But what if there be no monarch in the place? or what if he do not carry the ſword? Had the apoſtle ſpoken in vain, if the liberty of the Romans had not been overthrown by the fraud and violence of Caeſar? Was no obedience to be exacted while that people enjoyed the benefit of their own laws, and virtue flouriſhed under the moderate government of a legal and juſt magiſtracy, eſtabliſhed for the common good, by the common conſent of all? Had God no miniſter among them, till law and juſtice was overthrown, the beſt part of the people deſtroyed by the fury of a corrupt mercenary ſoldiery, and the world ſubdued under the tyranny of the worſt monſters, that it had ever produced? Are theſe the ways of eſtabliſhing God's vicegerents? And will he patronize no governors or governments, but ſuch as theſe? Does God uphold evil, and that only? If the world has been hitherto miſtaken, in giving the name of evil to that which is good, and calling that good which is evil, I deſire to know, what can be called good among men, if the government of the Romans, till they entered Greece and Aſia, and were corrupted by the luxury of both, do not deſerve that name? Or what is to be eſteemed evil, if the eſtabliſhment and exerciſe of the Caeſars power were not ſo? But ſays he, "wilt thou not be afraid of the power?" And was there no power in the governments, that had no monarchs? Were the Carthaginians, Romans, Grecians, Gauls, Germans, and Spaniards, without power? Was there no ſword in that nation, and in the hands of their magiſtrates, who overthrew the kingdoms of Armenia, Egypt, Numidia, Macedon, with many others, whom none of the monarchs were able to reſiſt? Are the Venetians, Switzers, Griſons, and Hollanders, now left in the ſame weakneſs, and no obedience at all due to their magiſtrates? If this be ſo, how comes it to paſs, that juſtice is ſo well adminiſtred among them? Who is it that defends the Hollanders in ſuch a manner, that the greateſt monarchs, with all their ſwords, have

* Sunt et belli, ſicut pacis jura. Grot. de Jure Belli, Proleg. § 26. Liv. l. 5, c. 27.

had

had no great reaſon to boaſt of any advantages gained againſt them? at leaſt till we (whom they could not reſiſt, when we had no monarch, though we have been diſgracefully beaten by them ſince we had one) by making leagues againſt them, and ſowing diviſions among them, inſtigated and aſſiſted the greateſt power now in the world to their deſtruction and our own. But our author is ſo accuſtomed to fraud, that he never cites a paſſage of Scripture, which he does not abuſe or vitiate; and that he may do the ſame in this place, he leaves out the following words, "for "there is no power but of God," that he might intitle one ſort only to his protection. If therefore the people and popular magiſtrates of Athens; the two kings, ephori, and ſenate of Sparta; the ſanhedrim among the Hebrews; the conſuls, tribunes, praetors, and ſenate of Rome; the magiſtrates of Holland, Switzerland, and Venice, have or had power, we may conclude, that they alſo were ordained by God; and that, according to the precept of the apoſtle, the ſame obedience, for the ſame reaſon, is due to them as to any monarch. SECT. 10

The apoſtle, farther explaining himſelf, and ſhewing, who may be accounted a magiſtrate, and what the duty of ſuch a one is, informs us, when we ſhould fear and on what account. "Rulers," ſays he, "are "not a terror to good works, but to the evil. Wilt thou then not be "afraid of the power? do that which is good, and thou ſhalt have praiſe "of the ſame; for he is the miniſter of God, a revenger to execute wrath "upon him that doth evil *." He therefore is only the miniſter of God, who is not a terror to good works, but to evil; who executes wrath upon thoſe that do evil, and is a praiſe to thoſe that do well. And he who does well ought not to be afraid of the power; for he ſhall receive praiſe. Now if our author were alive, though he was a man of a hard forehead, I would aſk him, whether in his conſcience he believed, that Tiberius, Caligula, Claudius, Nero, and the rabble of ſucceeding monſters, were a praiſe to thoſe who did well, and a terror to thoſe who did ill; and not the contrary, a praiſe to the worſt, and a terror to the beſt men of the world? Or for what reaſon Tacitus could ſay, that virtue brought men who lived under them to certain deſtruction †, and recite ſo many examples of the brave and good, who were murdered by them for being ſo, unleſs they had endeavoured to extinguiſh all that was good, and to tear up virtue by the roots ‡? Why did he call Domitian an enemy to virtue §, if he was a terror only to thoſe that did evil? If the world has hitherto been miſled in theſe things, and given the name of virtue to vice, and of vice to virtue, then Germanicus, Valerius Aſiaticus, Corbulo, Helvidius Priſcus, Thraſea, Soranus, and others, that reſembled them, who fell under the rage of thoſe beaſts, nay, Paul himſelf, and his diſciples, were evil doers; and Macro, Narciſſus, Pallas, Vinius, Laco, and Tigellinus, were virtuous and good men. If this be ſo, we are beholden to Filmer

* Rom. ch. 13, v. 3, 4. † Ob virtutes certiſſimum exitium. Tacit. Hiſt. l. 1, § 2.
‡ Ipſam exſcindere virtutem. Id. Annal. l. 16, § 21.
§ Infenſus virtutibus princeps. Id. in vitâ Agric.

for

CHAP. III for admoniſhing mankind of the error in which they had ſo long continued. If not, thoſe who perſecuted and murdered them for their virtues, were not a terror to ſuch as did evil, and a praiſe to thoſe who did well. The worſt men had no need to fear them; but the beſt had, becauſe they were the beſt. All princes, therefore, that have power, are not to be eſteemed equally the miniſters of God. They that are ſo muſt receive their dignity from a title, that is not common to all, even from a juſt employment of their power to the encouragement of virtue, and to the diſcouragement of vice. He that pretends to the veneration and obedience due to the miniſters of God, muſt by his actions manifeſt, that he is ſo. And though I am unwilling to advance a propoſition, that may ſound harſhly to tender ears, I am inclined to believe, that the ſame rule, which obliges us to yield obedience to the good magiſtrate, who is the miniſter of God, and aſſures us, that in obeying him we obey God, does equally oblige us not to obey thoſe, who make themſelves the miniſters of the devil, leſt in obeying them we obey the devil, whoſe works they do.

That none, but ſuch as are wilfully ignorant, may miſtake Paul's meaning, Peter, who was directed by the ſame ſpirit, ſays diſtinctly, "ſubmit yourſelves to every ordinance of man for the Lord's ſake *." If therefore there be ſeveral ordinances of men tending to the ſame end, that is, the obtaining of juſtice, by being a terror to the evil, and a praiſe to the good, the like obedience is for conſcience ſake injoined to all, and upon the ſame condition. But, as no man dares to ſay, that Athens and Perſia, Carthage and Egypt, Switzerland and France, Venice and Turky, were and are under the ſame government, the ſame obedience is due to the magiſtrate in every one of thoſe places, and all others on the ſame account, while they continue to be the miniſters of God.

If our author ſay, that Peter cannot comprehend kings under the name of human ordinances, ſince Paul ſays, they are the ordinance of God, I may as well ſay, that Paul cannot call that the ordinance of God, which Peter calls the ordinance of man. But as it was ſaid of Moſes and Samuel, that they who ſpoke by the ſame ſpirit could not contradict each other, Peter and Paul, being full of wiſdom and ſanctity, and inſpired by the ſame ſpirit, muſt needs ſay the ſame thing. And Grotius ſhews, that they perfectly agree, though the one calls kings, rulers, and governors, the ordinance of man, and the other, the ordinance of God; inaſmuch as God having from the beginning ordained, that men ſhould not live like wolves in woods, every man by himſelf, but together in civil ſocieties, left to every one a liberty of joining with that ſociety which beſt pleaſed him, and to every ſociety to create ſuch magiſtrates, and frame ſuch laws, as ſhould ſeem moſt conducing to their own good, according to the meaſure of light and reaſon they might have. And every magiſtracy ſo inſtituted might rightly be called the ordinance of man, who was the inſtituter, and the ordinance of God, according to which it was inſtituted: becauſe

* 1 Pet. ch. 2, v. 3

ſays

ſays he, " God approved and ratified the ſalutary conſtitutions of govern- SECT. 10.
ment made by men.*"

But, ſays our author, " Peter expounds his own words of the human " ordinance, to be the king, who is the lex loquens." But he ſays no ſuch thing, and I do not find, that any ſuch thought ever entered into the apoſtle's mind. The words are often found in the works of Plato and Ariſtotle, but applied only to ſuch a man as is a king by nature, who is endowed with all the virtues that tend to the good of human ſocieties in a greater meaſure than any or all thoſe that compoſe them; which character, I think, will be ill applied to all kings. And that this may appear to be true, I deſire to know whether it would well have agreed with Nero, Caligula, Domitian, or others like to them; and if not with them, then not with all, but only with thoſe who are endowed with ſuch virtues. But if the king be made by man, he muſt be ſuch as man makes him to be; and if the power of a law had been given by any human ſanction to the word of a fooliſh, mad, or wicked man, which I hardly believe, it would be deſtroyed by its own iniquity and turpitude, and the people left under the obligation of rendering obedience to thoſe, who ſo uſe the ſword, that the nations under them may live ſoberly, peaceably, and honeſtly.

This obliges me a little to examine what is meant by the ſword. The pope ſays there are two ſwords, the one temporal, the other ſpiritual; and that both of them were given to Peter, and to his ſucceſſors. Others more rightly underſtand the two ſwords to be that of war, and that of juſtice, which, according to ſeveral conſtitutions of governments, have been committed to ſeveral hands, under ſeveral conditions and limitations. The ſword of juſtice comprehends the legiſlative and the executive power: the one is exerciſed in making laws, the other in judging controverſies according to ſuch as are made. The military ſword is uſed by thoſe magiſtrates who have it, in making war or peace with whom they think fit, and ſometimes by others who have it not, in purſuing ſuch wars as are reſolved upon by another power. The Jewiſh doctors generally agree, that the kings of Judah could make no law, becauſe there was a curſe denounced againſt thoſe who ſhould add to, or detract from that which God has given by the hand of Moſes; that they might ſit in judgment with the high-prieſt and ſanhedrim, but could not judge by themſelves, unleſs the ſanhedrim did plainly fail of performing their duty. Upon this account Maimonides excuſes David for commanding Solomon not to ſuffer the grey hairs of Joab to go down to the grave in peace, and Solomon for appointing him to be killed at the foot of the altar: for he having killed Abner and Amaſa, and by thoſe actions ſhed the blood of war in time of

* Notandum eſt, primò homines non Dei praecepto, ſed ſponte adductos experimento infirmitatis familiarum ſegregum adverſus violentiam, in ſocietatem civilem coiiſſe, unde ortum habet poteſtas civilis, quam ideò humanam ordinationem Petrus vocat, quanquam alibi et divina ordinatio vocatur, quia hominum ſalubre inſtitutum Deus probavit. Grot. de Jure Belli, l. 1, c. 4, § 7.

peace,

CHAP. III peace, the ſanhedrim ſhould have puniſhed him; but, being protected by favour or power, and even David himſelf fearing him, Solomon was put in mind of his duty; which he performed, though Joab laid hold upon the horns of the altar, which, by the expreſs words of the law, gave no protection to wilful murderers.

The uſe of the military ſword among them was alſo moderated. Their kings might make war upon the ſeven accurſed nations, that they were commanded to deſtroy, and ſo might any other man; for no peace was to be made with them: but not againſt any other nation, without the aſſent of the ſanhedrim. And when Amaziah, contrary to that law, had fooliſhly made war upon Joaſh king of Iſrael, and thereby brought a great ſlaughter upon Judah, the princes, that is, the ſanhedrim, combined againſt him, purſued him to Lachiſh, and killed him there*.

The legiſlative power of Sparta was evidently in the people. The laws that go under the name of Lycurgus, were propoſed by him to the general aſſembly of the people, and from them received their authority †. But the diſcipline they contained was of ſuch efficacy for framing the minds of men to virtue, and by baniſhing ſilver and gold they ſo far baniſhed all manner of crimes, that from the inſtitution of thoſe laws to the times of their corruption, which was more than eight hundred years, we hardly find, that three men were put to death, of whom two were kings. So that it ſeems difficult to determine where the power of judging did reſide, though it is moſt probable, conſidering the nature of their government, that it was in the ſenate, and, in caſes extraordinary, in the ephori, with a right of appealing to the people. Their kings therefore could have little to do with the ſword of juſtice, neither the legiſlative nor the judicial power being any ways in them.

The military ſword was not much more in their power, unleſs the excellency of their virtues gave them the credit of perſuading, when the law denied the right of commanding. They were obliged to make war againſt thoſe, and thoſe only, who were declared enemies by the ſenate and ephori, and in the manner, place, and time, they directed: ſo that Ageſilaus, though carrying on a glorious war in Perſia, no ſooner received the parchment-roll, wherein he was commanded by the ephori to come home for the defence of his own country, than he immediately returned, and is on that account called by no leſs a man than Xenophon, a good and faithful king, rendering obedience to the laws of his country ‡.

By this it appears, that there are kings who may be feared by thoſe that do ill, and not by ſuch as do well; for, having no more power than what the law gives, and being obliged to execute it as the law directs, they cannot depart from the precept of the apoſtle. My own actions

* 2 Kings ch. 14, v. 19. It is only ſuppoſed from circumſtances, not aſſerted in the text, that the princes, or the ſanhedrim, were the authors of this combination. "VIDENTUR conjurati fuiſſe viri potentes ac primarii, quibus rex auſus non eſt reſiſtere, aut plectere, ſed ſe ſubduxit." Menochius, in locum.

† Plut. in vitâ Lycurgi, p. 42. ‡ Vide ſuprà, p. 90

therefore,

therefore, or the ſenſe of my own guilt ariſing from them, is to be the meaſure of my fear of that magiſtrate who is the miniſter of God, and not his power. SECT. 16

The like may be ſaid of almoſt all the nations of the world, that have had any thing of civil order among them. The ſupreme magiſtrate, under what name ſoever he was known, whether king, emperor, aſymnetes *, ſuffetes †, conſul, dictator, or archon, has uſually a part aſſigned to him in the adminiſtration of juſtice, and making war; but that he may know it to be aſſigned, and not inherent, and ſo aſſigned as to be employed for the public good, not to his own profit or pleaſure, it is circumſcribed by ſuch rules as he cannot ſafely tranſgreſs. This is above all ſeen in the German nations, from whom we draw our original and government; and is ſo well deſcribed by Tacitus, in his treatiſe of their cuſtoms and manners, that I ſhall content myſelf to refer to it, and to what I have cited from him in the former part of this work. The Saxons, coming into our country, retained to themſelves the ſame rights. They had no kings but ſuch as were ſet up by themſelves, and they abrogated their power when they pleaſed ‡. Offa acknowledged, "that he was choſen for the "defence

* Οἱ Αισυμνηται καλεμενοι παρ' Ελλησι το αρχαιον αἱρετοι τινες ησαν τυραννοι. Dion. Halic. l. 5, p. 336, Edit. Lipſ. 1691. —— Αισυμνητεια εστιν αἱρετη τυραννις, Aeſymnetia eſt tyrannis optiva, ſeu ſuffragio et conſenſu populi delata. Vide Ariſt. Polit. l. 3, c. 14. Alex. ab Alex. l. 4, c. 13

† The principal magiſtrates at Carthage. Vide Liv. l. 28, c. 37. l. 30, c. 7. The word is probably derived from שופטים Suphetim, judges.

‡ OFFA. Unanimi omnium conſenſu, Offam in regem tam clerus quàm populus coronârunt. Mat. Weſt. Flor. Hiſt. ſub ann. 758. — Amici et commilitones mei, qui me ad libertatis veſtrae unanimiter, non meis meritis, ſed ſolâ liberalitate veſtrâ, convocâſtis tuitionem, etc. Mat. Paris. in vitâ Offae ſecundi, p. 13, Edit. Lond. 1640

In the council at Calchuth, which was held in the year 787, c. 12, "De ordinatione "et honore regum," it was decreed, "ut legitimè reges à ſacerdotibus et ſenioribus populi "eligerentur." The laws which were made in that aſſembly are ſaid to have been propoſed and ratified, "in concilio publico, coram rege Alfuualdo, et archiepiſcopo Ean-"baldo, et omnibus epiſcopis et abbatibus regionis, ſeu ſenatoribus, et ducibus, et populo "terrae;" and at the ſame time to have been received and confirmed by king Offa, and the nobles and prelates of Mercia. Spelm. Concil. vol. 1, p. 296, 300

EGBERT. Ordinatur Ecgbyrht ſuper Occidentales Anglos in regnum. Chron. Ethelwerdi, l. 3, c. 2. — Defuncto Brictrico, frequentibus ſuorum nunciis Britanniam reverſus, moxque imperare juſſus, patriae deſideriis ſatisfecit. Will. Malmeſb. de Geſt. Reg. Angl. l. 2, c. 1. — Egbertus, ex Galliâ properè in patriam reverſus, omnium conſenſu rex creatur. Polyd. Verg. Angl, Hiſt. l. 4, p. 88, Edit. Baſil. 1534

ETHELWOLF. Adelwulfus, Egbricto patre ſuo defuncto, neceſſitate cogente, factus eſt rex. Hen. Hunting. Hiſt. l. 5, p. 348. Hovend. Annal. p. 413. — Iſte autem rex, Deo devotus, ante obitum Egberti regis patris ſui, Wentanae urbis fuerat epiſcopus ordinatus, ſed patre defuncto, licèt multùm repugnans, rex creatus eſt, cùm non eſſet alius de regio genere, qui regnare debuiſſet. Mat. Weſt. ſub ann. 837, p. 159

ETHELBALD. Ineffabili patris clementiâ, et omnium aſtipulatione nobilium adunatum anteà regnum inter patrem et filium dividitur. Aſſerii Annal. ſub ann. 855, p. 156, Edit. Oxon. 1691. Idem, de Reb. Geſt. Aelfredi, p. 3. — Poſt obitum Athulfi regis, ordinati ſunt filii ejus in regnum. Chron. Ethelw. l. 4, c. 1

CHAP. III " defence of their liberty, not from his own merit, but by their favour." And in the Conventus Pananglicus, at which all the chief men, as well ſecular

ETHELBERT. Aethelbyrht ordinatus eſt ſuper Cantuarios, et Orientales, Auſtrales quoque, et medios Anglos. Ibid.

ETHELRED. Conceſſum eſt regnum totius provinciae Occidentalium Saxonum poſt mortem Ethilbyrti Ethelredo fratri ſuo. Rudburni Hiſt. Major. Winton. l. 3, c. 5. — Ethelredus deinde Ethelberti frater rex creatur. Polyd. Verg. l. 5, p. 94

ALFRED. Ego Aelfredus divino munere, labore ac ſtudio Athelredi archiepiſcopi, nec non totius Weſt-Saxoniae nobilitatis conſenſu pariter et aſſenſu, Occidentalium Saxonum rex, quos in teſtimonium meae ultimae voluntatis complementi, ut ſint advocati in diſponendis pro ſalute animae meae, regali electione confirmo, tam de haereditate, quam Deus ac principes, cum ſenioribus populi, miſericorditer ac benignè dederunt, etc. . . . Ego in nomine domini exhortor, et in nomine omnium ſanctorum, quòd nemo conſanguineorum meorum in poſterum contra aliquem meae conſanguinitatis laboret quovis modo, quoad ea, quae ego ipſis dedi peranteà pariter et legavi. Et mecum tota nobilitas Weſt-Saxonicae gentis pro recto jure conſentiunt, quòd me oportet dimittere eos ita liberos, ſicut in homine cogitatio ipſius conſiſtet. Teſtam. Alfredi regis. Vide Aſſer. de Aelfredi Reb. Geſt. ſub finem.

EDWARD THE ELDER. Succeſſor equidèm monarchiae pòſt filius ſuprà memorati regis coronatur, ipſe ſtemmate regali, à primatis electus pentecoſtes in die. Chron. Ethelw. l. 4, c. 4, ſub ann. 901

ETHELSTAN. Athelſtanus fuit à Merciis electus in regem, et apud Cingeſtune conſecratus. Chron. Saxon. ſub ann. 925. — Magno conſenſu optimatum Aethelſtanus electus eſt. Will. Malmeſb. l. 2, c. 6. —— Adelſtan filius Edwardi electus eſt rex in Merce, et ſacratus apud Kingſtun. Hen. Hunting. l. 5, p. 354. —— Rege Edwardo defuncto, filius ejus Aethelwardus ex legitimâ conjuge generatus, patrem citâ morte ſecutus eſt. Tunc Aethelſtanus, omnium favore, licèt ex concubinâ ſuſceptus, in regem electus, ſpreto Eadwino, nondum ad regnandum propter teneros annos idoneo, in Kingſtonâ, villâ regiâ, ipſum conſecraverunt. Mat. Weſt. ſub ann. 934, p. 186. — Rex à populo conſalutatur. Polyd. Verg. l. 6, p. 109

EDMUND. Frater ejus Edmundus locum decedentis rex factus obtinuit. Oſbernus in vitâ Odonis. Anglia Sacra, vol. 2, p. 81. Edit. Lond. 1691

EDRED. Duos filios ex Elfgivâ conjuge Edmundus rex ſuſceperat adhuc ſuperſtites, cùm vitâ et regno defungitur; ſed quia neuter ad coronam maturus erat, Edredus, Edmundi frater, procerum populique ſuffragio regnare jubetur. Alfordi Annal. ſub ann. 946

EDWI. Edwyus filius ſuprà memorati regis Edmundi in regem electus eſt. Oſbern. in vitâ Odonis, p. 83

EDGAR. Rex Anglorum Eadwius, quoniam in commiſſo regimine inſipienter egit, à Mercenſibus et Northimbrenſibus contemptus relinquitur, et ſuus germanus Clyto Eadgarus ab eis rex eligitur. Florent. Wigorn. ſub ann. 957. Sim. Dunelm. ann. 957. Hovend. Annal. p. 425. — Cujus [Edwii] regnum ſuus germanus, rex Mercenſium, Edgarus, ab omni Anglorum populo electus, ſuſcepit, diviſaque regna in unum copulavit. Floren. Wigorn. ſub ann. 959. Hovend. Annal. p. 425. — Quo unanimi omnium conſpiratione dejecto, elegerunt, Deo dictante, fratrem ejus Eadgarum in regem, et annuente populo, etc. Mat. Weſt. ſub ann. 957, p. 190

Elapſo tandem ſeptennalis poenitentiae termino, congregatis omnibus Angliae principibus, epiſcopis, et abbatibus, impoſuit [Dunſtanus] regi coronam, coram omni multitudine populi Anglorum, cunctis laetantibus, et Deum in S. Dunſtano laudantibus. Capgravius in vitâ

ſecular as eccleſiaſtical, were preſent, it was decreed by the king, archbiſhops, biſhops, abbots, dukes, and ſenators, that the kings ſhould be choſen SECT. 10

vitâ S. Dunſt. fol. 93. Oſbern. in vitâ S. Dunſtani. Baronii Annal. ſub ann. 970. Spelm. Concil. ann. 969, p. 482

EDWARD THE MARTYR. Quo [Eadgaro] defuncto, de rege eligendo magna inter regni principes diſſenſio eſt exorta. Quidam enim filium regis primogenitum Eadwardum, quidam verò fratrem ſuum Aethelredum de ſecundâ uxore generatum unanimiter elegerunt. Quam ob cauſam duo archipraeſules, Dunſtanus Cantuarienſis, et Oſwaldus Eboracenſis, cum epiſcopis, abbatibus, et ducibus, in unum convenientes, Eadwardum, ut pater ejus moriens dictaverat, elegerunt, electum conſecraverunt, et in regem, quibuſdam murmurantibus, inunxerunt. Mat. Weſt. ſub ann. 975, p. 193. Florent. Wigorn. ſub ann. 975, p. 607. Sim. Dunelm. ann. 975. Hoveud. Annal. p. 427. —— Edgaro rege mortuo, et Edwardo ad regnum relicto, dum quidam principes acquieſcere nollent, Dunſtanus, arrepto crucis vexillo, in medio conſtitit, Edwardum illis oſtendit, elegit, ſacravit. Capgrav. in vitâ S. Dunſtan. fol. 94

ETHELRED II. Eadwardus rex occiditur, Atheldredus eligitur. Annal. Thornienſes, in biblioth. Cotton. ſub ann. 978. —In demortui Edwardi locum Etheldredus rex ſubſtituitur. Polyd. Verg. l. 7, p. 119

Anno dominicae incarnationis 979, Ethelredus filius Edgari, et Elfredae, regnum adeptus, obſedit potius quàm rexit annis 37. Ejus vitae curſus ſaevus in principio, miſer in medio, turpis in exitu, aſſeritur. Will. Malmeſb. l. 2, c. 10

EDMUND IRONSIDE. Omnes proceres, qui in Lundoniâ erant, et cives, elegerunt Eadmundum in regem. Chron. Saxon. ſub ann. 1016. — Cui [Ethelredo] ſucceſſit in regnum, Londonienſium et Weſt-Saxonum electione, filius ejus primogenitus Edmundus, Ferreum Latus pro ſuâ fortitudine cognominatus. Ingulph. p. 892. — Cives Londonienſes et pars nobilium, qui eo tempore conſiſtebant Londoniae, Clytonem Eadmundum, unanimi conſenſu, in regem levavêre. Florent. Wigorn. ſub ann. 1016, p. 617. Sim. Dunelm. ann. 1016. —Poſt quem [Adelredum] Eadmundus filius ejus electus eſt in regem. Hen. Hunting. l. 6, p. 362

CANUTUS. Omnium conſenſu, Cnutus ſuper totam Angliam coronatus. Ingulph. p. 892. — Poſt cujus [Aethelredi] mortem epiſcopi, abbates, duces, et quique nobiliores Angliae, in unum congregati, pari conſenſu, in dominum et regem ſibi Canutum elegêre. Florent. Wigorn. ſub ann. 1016, p. 616. —Totius Angliae ſuſcepit imperium. Foedus etiam cum principibus, et omni populo ipſe, et illi cum ipſo percuſſerunt. Ibid. p. 619. — Juraverunt illi, quòd il um regem ſibi eligere vellent. Hovend. Annal. 436. — Poſt cujus [Aethelredi] mortem, maxima pars regni tam clericorum quam laicorum in unum congregati, pari conſenſu, Cnutonem in regem elegerunt; et ad eum apud Suthamtoniam venientes, pacem cum eo pepigerunt, et fidelitatem juraverunt. Mat. Weſt. ſub ann. 1016, p. 203

HAROLD. Leofricus comes, et omnes propè thani à boreoli parte Thameſis, et nautae de Lundoniâ, elegerunt Haroldum in regem totius Angliae. Annal. Saxon. ſub ann. 1036. — Elegerunt eum Dani et Londoniae cives. Will. Malmeſb. l. 2, c. 12. Haraldus filius Cnut regis, et Ailivae, filiae Alfelmi ducis, electus eſt in regem. Hen. Hunting. l. 6, p. 364. Haroldus rex Merciorum et Northimbrorum, anno 1037, ut per totam regnaret Angliam, à principibus et omni populo rex eligitur. Hovend. Annal. p. 438. Sim. Dunelm. ſub ann. 1037. Radulph. de Diceto, ann. 1038. — Defuncto Cnutone, convenerunt apud Oxoniam ad colloquium proceres regni, ut de novo rege creando tractarent ibidem. Ubi conſul Leofricus et omnes Danorum principes, cum Londonienſibus, elegerunt Haraldum, filium Cnutonis, ex concubinâ Algivâ generatum. Mat. Weſt. ſub ann. 1035, p. 209

CHAP. III. choſen by the prieſts, and by the elders of the people. In purſuance of which, Egbert, who had no right to the ſucceſſion, was made king. [Ethelwerd was choſen in the ſame manner by the conſent of all.] Ethelwolf a monk, for want of a better, was advanced to the ſame honour. His ſon Alfred, though crowned by the pope, [and marrying without the conſent of the nobility and kingdom, againſt their cuſtoms and

HARDICANUTE. Cujus [Cnuti] duo filii, Haroldus et Hardetnutus, tum de regno diſceptantes, videbantur bellum maximum parturire. Nam et Dani Londonienſes Haroldum filium Elfginae Northamtoniae, ſed defamatum, fictum filium regis Cnuti; Angli verò, cum totâ caeterâ terrâ, potiùs Edwardum, filium regis Ethelredi, ſeu ſaltem Cnuti regis filium Hardetnutum, ex Emmâ reginâ genitum, eligebant. Ingulph. p. 894. — Hardecnut, filius regis Cnuti, veniens à Daciâ illicò ſuſceptus eſt, et electus in regem ſimul ab Anglis et Dacis. Hen. Hunting. l. 6, p. 365. — Haraldus apud Oxoniam defunctus eſt. Tum proceres tam Anglorum quam Danorum, in unam concordantes ſententiam, miſerunt legatos ad Brigges in Flandriam, ad regem Daniae Hardecnutonem, qui cum matre ſuâ ibidem morabatur, rogantes ut ad Angliam veniret regni diadema ſuſcepturus: qui conſiliis magnatum illicò adquieſcens, aeſtate mediâ venit in Angliam, et gratanter ab omnibus ſuſceptus, ab Eadſio Cantuarienſi archiepiſcopo in regem eſt conſecratus. Mat. Weſt. ſub ann. 1040, p. 210. — Interea Canutus, quem Anglici ſcriptores perperàm Hardecanutum vocant, cognitâ morte Haraldi . . . . Londinum profectus libentiſſimis animis accipitur, communique omnium conſenſu rex dicitur. Polyd. Verg. p. 132, 133.

EDWARD THE CONFESSOR. Poſt ejus [Hardetnuti] obitum, omnium electione in Edwardum concordatur. Ingulph. p. 895. — Edwardus cum paucis venit in Angliam, et electus eſt in regem ab omni populo. Hen. Hunting. l. 6, p. 365. — Eadwardus, annuente clero et populo, Londoniis in regem eligitur. Mat. Weſt. ſub ann. 1042, p. 212.

HAROLD II. Tunc Haroldus comes capeſſit regnum, ſicut rex ei conceſſerat, omneſque ad id eum eligebant, et conſecratus eſt in regem in feſto Epiphaniae. Annal. Saxon. ſub ann. 1066, p. 172. — Quo [Edwardo] tumulato, ſubregulus Haraldus, Godwini ducis filius, quem rex ante ſuam deceſſionem regni ſucceſſorem elegerat, à totius Angliae primatibus ad regale culmen electus eſt. Hiſt. Eccl. Elienſis. l. 2, c. 43, p. 515. Edit. Gale, 1691. Floren. Wigorn. ſub ann. 1066, p. 633. Sim. Dunelm. ſub eod. anno.

Haroldus de regno addebat, praeſumptuoſum fuiſſe, quod, abſque generali ſenatûs et populi conventu et edicto, alienam illi haereditatem juraverit. Will. Malmeſb. l. 3, p. 99. Mat. Weſt. ſub ann. 1066, p. 222.

WILLIAM THE CONQUEROR. Anno gratiae 1067, dux Normannorum Gulihelmus, urbem Londoniarum adiens, in magnâ exultatione, à clero et populo ſuſceptus, et ab omnibus rex acclamatus, ab Aeldredo Eboracenſi archiepiſcopo, regni Angliae accepit diadema. Mat. Weſt. l. 2, p. 225. Mat. Paris, p. 5. — Die ordinationi decreto elocutus ad Anglos condecenti ſermone Eboracenſis archiepiſcopus, an conſentirent eum ſibi dominum coronari, inquiſivit. Proteſtati ſunt hilarem conſenſum univerſi minimè haeſitantes, ac ſi coelitùs unâ mente datâ unâque voce . . . electum conſecravit idem archiepiſcopus. Guil. Pictavenſis, de Geſt. Guil. Ducis Norm. p. 206. Edit. Par. 1619. — Ab omnibus tam Normannorum quam Anglorum proceribus rex eſt electus. Will. Gemet. Hiſt. Norm. l. 7, c. 37. — Cuncti praeſules regnique proceres cum Guillelmo concordiam fecerunt, ac ut diadema regium ſumeret, ſicut mos Anglici principatûs exigit, oraverunt. Ord. Vitalis Eccl. Hiſt. l. 3, p. 503. Par. 1619.

Neminem Anglici regni conſtituo haeredem, ſed aeterno conditori cujus ſum, et in cujus manu ſunt omnia, illud commendo: non enim tantum decus haereditario jure poſſedi, ſed diro conflictu, et multâ effuſione humani cruoris perjuro regi Haraldo abſtuli, et, interfectis vel effugatis fautoribus ejus, dominatui meo ſubegi. Fragment. apud Anglicarum, Normannicarum, et Hibernicarum rerum Scriptores, edit. à G. Camdeno. p. 32.

ſtatutes,

ſtatutes,]* acknowledged, that he had received the crown from the bounty of the princes, elders, and people; and in his will declared, that he left the people as he had found them, free as the inward thoughts of man. His ſon Edward was elected to be his ſucceſſor. Ethelſtan, though a baſtard, and without all title, was elected by the conſent of the nobility and people. Edred, by the ſame authority, was elected and preferred before the ſons of Edmund his predeceſſor. Edwin, though rightly choſen, was depoſed for his ill life, and Edgar elected king, by "the will of God, "and conſent of the people." But he alſo was deprived of the crown for the rape of a nun, and after ſeven years reſtored by the whole people, "coram omni multitudine populi Anglorum." Ethelred, who is ſaid to have been cruel in the beginning, wretched in the courſe, and infamous in the end of his reign, was depoſed by the ſame power that had advanced him. Canutus made a contract with the princes, and the whole people, and thereupon was, by general conſent, crowned king over all England. After him Harold was choſen in the uſual manner. He being dead, a meſſage was ſent to Hardicanute, with an offer of the crown, which he accepted, and accordingly was received. Edward the Confeſſor was elected king with the conſent of the clergy and people at London; and Harold excuſed himſelf for not performing his oath to William the Norman, becauſe he ſaid, he had made it unduly and preſumptuouſly, without conſulting the nobility and people, and without their authority. William was received with great joy by the clergy and people, and ſaluted king by all, ſwearing to obſerve the antient good and approved laws of England. And though he did but ill perform his oath, yet before his death he ſeemed to repent of the ways he had taken, and only wiſhing his ſon might be king of England, he confeſſed in his laſt will, made at Rouen in Normandy, that he neither found nor left the kingdom as an inheritance. If he poſſeſſed no right except what was conferred upon him, no more was conferred than had been enjoyed by the antient kings, according to the approved laws, which he ſwore to obſerve †. Thoſe laws gave no power to any, till he was elected; and that which they did then SECT. 10

*Rex magnificus Occidentalium Saxonum Aethelulfus cum honore maximo Romam profectus, duxit ſecum Aelfredum filium ſuum juniorem, quem caeteris omnibus plus dilexit, ut à papâ Leone moribus pariter et religione informaretur ibidem. Ubi cùm anno integro rex cum filio demoratus fuiſſet, fecit filium ſuum ibi à papâ in regem coronari, atque poſt dies paucos ad patriam rediens duxit Iudetham, Caroli regis Francorum filiam, ſecum in Angliam, ſibi matrimonio copulatam. Sed interea dum rex moram faceret in partibus tranſmarinis exorta eſt contra regem praedictum magnatum quorundam conſpiratio . . . . . Cauſa bifaria erat; una quod filium juniorem Aelfredum, quaſi aliis à ſorte regni excluſis, in regem Romae fecerat coronari. Alia verò quòd, ſpretis omnibus Angliae mulieribus, filiam regis Francorum alienigenam ſibi per conjugium copulavit. Praeterea audierunt conſpiratores, quod, "contra morem et ſtatuta" regum Weſt-Saxonum, Judetham regis Francorum filiam, quam nuper deſponſaverat, reginam appellabat, et in menſâ, ad latus ſuum convivari faciebat. Gens verò Weſt-Saxonum non permittit reginam juxta regem ſedere; nec etiam reginam, ſed regis conjugem nominari. Mat. Weſt. ſub ann. 854, p. 158. Aſſerius de Aelfredi Reb. Geſtis, p. 2. Edit. Franc. 1603

By this and other teſtimonies it appears, that it was Ethelwolf, and not Alfred as our author ſays, who married Judith, daughter of the king of France, "contra morem et ſtatuta."

† Vide infrà, ch. 3, ſect. 17.

give

CHAP. III

give was ſo limited, that the nobility and people reſerved to themſelves the diſpoſition of the greateſt affairs, even to the depoſition and expulſion of ſuch as ſhould not well perform the duty of their oath and office. And I leave it to our author to prove, how they can be ſaid to have had the ſword, and the power, ſo as to be feared, otherwiſe than, as the apoſtle ſays, by thoſe that do evil; which we acknowledge to be not only in the king, but in the loweſt officer of juſtice in the world.

If it be pretended, that our later kings are more to be feared than William the Norman, or his predeceſſors, it muſt not be, as has been proved, either from the general right of kings, or from the doctrine of the apoſtle, but from ſomething elſe, that is peculiar and ſubſequent, which I leave our author's diſciples to prove, and an anſwer may be found in due time. But to ſhew, that our anceſtors did not miſtake the words of the apoſtle, it is good to conſider when, to whom, and upon what occaſion, he ſpoke. The Chriſtian religion was then in its infancy: his diſcourſes were addreſſed to the profeſſors of it, who, though they ſoon grew to be conſiderable in number, were, for the moſt part, of the meaneſt ſort of people, ſervants, or inhabitants of the cities, rather than citizens and freemen; joined in no civil body or ſociety, nor ſuch as had or could have any part in the government. The occaſion was, to ſuppreſs the dangerous miſtake of many converted Jews, and others, who, knowing themſelves to be freed from the power of ſin and the devil, preſumed they were alſo freed from the obligation of human laws. And if this error had not been cropped in the bud, it would have given occaſion to their enemies (who deſired nothing more) to deſtroy them all; and who, knowing that ſuch notions were ſtirring among them, would have been glad, that they, who were not eaſily to be diſcovered, had by that means diſcovered themſelves.

This induced a neceſſity of diverting a poor, mean, ſcattered people from ſuch thoughts concerning the ſtate; to convince them of the error into which they were fallen, that Chriſtians did not owe the ſame obedience to civil laws and magiſtrates as other men, and to keep them from drawing deſtruction upon themſelves by ſuch ways, as not being warranted by God, had no promiſe of his protection. St. Paul's work was to preſerve the profeſſors of Chriſtianity, as appears by his own words: "I "exhort, that firſt of all, ſupplications, prayers, interceſſions, and giv-"ing of thanks, be made for all men; for kings, and for all that are in "authority, that we may lead a quiet and peaceable life, in all godlineſs "and honeſty. Put them in mind to be ſubject to principalities and "powers, to obey magiſtrates, to be ready for every good work *." St. Peter agrees with him fully in deſcribing the magiſtrate, and his duty; ſhewing the reaſons why obedience ſhould be paid to him, and teaching Chriſtians to be humble, and contented with their condition, as free, yet not uſing their liberty for a cover to malice; and not only to fear God, and honour the king (of which conjunction of words ſuch as Filmer are very proud) but to honour all men, as is ſaid in the ſame verſe. This

* 1 Tim. ch. 2, v. 1, 2. Tit. ch. 3

was,

was, in a peculiar manner, the work of that time, in which thoſe who were to preach and propagate the goſpel were not to be diverted from that duty, by entangling themſelves in the care of ſtate-affairs. But it does in ſome ſenſe agree with all times: for it can never be the duty of a good man to oppoſe ſuch a magiſtrate, as is the miniſter of God, in the exerciſe of his office, nor to deny to any man that which is his due. SECT. 10.

But as the Chriſtian law exempts no man from the duty he owes to his father, maſter, or the magiſtrate, it does not make him more a ſlave than he was before, nor deprive him of any natural or civil right; and if we are obliged to pay tribute, honour, or any other thing, where it is not due, it muſt be by ſome precept very different from that which commands us to give to Caeſar that which is Caeſar's. If he define the magiſtrate to be the miniſter of God doing juſtice, and from thence draw the reaſons he gives for rendering obedience to him, we are to inquire, whoſe miniſter he is who overthrows it, and look for ſome other reaſon for rendering obedience to him, than the words of the apoſtles. If David, who was willing to lay down his life for the people, "who hated iniquity," and would not "ſuffer a lyar to come into his preſence*," was the miniſter of God, I deſire to know, whoſe miniſter Caligula was, who ſet up himſelf to be worſhipped for a god †, and would at once have deſtroyed all the people, that he ought to have protected? Whoſe miniſter was Nero, who, beſides the abominable impurities of his life, and hatred to all virtue, as contrary to his perſon and government, ſet fire to the great city? If it be true, that "contrariorum contraria eſt ratio," theſe queſtions are eaſily decided; and if the reaſons of things are eternal, the ſame diſtinction, grounded upon truth, will be good for ever. Every magiſtrate, and every man by his works, will for ever declare whoſe miniſter he is, in what ſpirit he lives, and conſequently what obedience is due to him according to the precept of the apoſtle. If any man aſk, what I mean by juſtice, I anſwer, that the law of the land, as far as it is "ſanctio recta, "jubens honeſta, prohibens contraria ‡," declares what it is. But there have been and are laws, that are neither juſt nor commendable. There was a law in Rome, that no god ſhould be worſhipped without the conſent of the ſenate: upon which, Tertullian ſays ſcoffingly, "that God "ſhall not be God, unleſs he pleaſe man §." By virtue of this law, the firſt Chriſtians were expoſed to all manner of cruelties; and ſome of the emperors, in other reſpects excellent men, moſt foully polluted themſelves and their government with innocent blood. Antoninus Pius was taken in this ſnare; and Tertullian bitterly derides Trajan, for glorying in his clemency, when he had commanded Pliny, who was proconſul in Aſia,

* Pſal. 101, v. 10 † Vide ſuprà, p. 246

‡ Eſt lex nihil aliud, niſi recta, et à numine deorum tracta ratio, imperans honeſta, prohibens contraria. Cic. Philip. 11, § 28. — Licèt largiſſimè dicatur lex omne quod legitur, tamen ſpecialiter ſignificat ſanctionem juſtam, jubentem honeſta, prohibentem contraria. Bract. l. 1, c. 3, fol. 2

§ Vetus erat decretum, ne qui deus ab imperatore conſecraretur, niſi à ſenatu probatus .... Niſi homini deus placuerit, deus non erit. Tertul. Apol. p. 6

not

CHAP. III not to make any ſearch for Chriſtians, but only to puniſh them according to law, when they ſhould be brought before him *. No municipal law can be more firmly eſtabliſhed by human authority, than that of the inquiſition in Spain, and other places: and each of thoſe accurſed tribunals, which have ſhed more Chriſtian blood than all the pagans, that ever were in the world, is commonly called "the holy office." If a gentleman in Poland kill a peaſant, he is by a law now in uſe free from puniſhment, if he lay a ducat upon the dead body. Evenus the third, king of Scotland, cauſed a law to paſs, by which the wives and daughters of noblemen were expoſed to his luſt, and thoſe of the commons to the luſt of the nobility †. Theſe, and an infinite number of others like to them, were not right ſanctions, but ſuch as have produced unſpeakable miſchiefs and calamities. They were not therefore laws: the name of juſtice is abuſively attributed to them: thoſe that govern by them cannot be the miniſters of God: and the apoſtle commanding our obedience to the miniſter of God for our good, commands us not to be obedient to the miniſter of the devil to our hurt; for we cannot ſerve two maſters.

SECTION XI

THAT WHICH IS NOT JUST IS NOT LAW; AND THAT WHICH IS NOT LAW OUGHT NOT TO BE OBEYED.

Our author, having for a long time pretended conſcience, now pulls off his maſk, and plainly tells us, that it is not on account of conſcience, but for fear of puniſhment, or in hope of reward, that laws are to be obeyed. "That familiar diſtinction of the ſchoolmen, ‡" ſays he, "whereby they "ſubject kings to the directive, but not to the coactive power of laws, is "a confeſſion, that kings are not bound by the poſitive laws of any nation, "ſince the compulſory power of laws is that which properly makes laws "to be laws." Not troubling myſelf with this diſtinction of the ſchoolmen, nor acknowledging any truth to be in it, or that they are competent judges of ſuch matters, I ſay, that if it be true, our author's concluſion is altogether falſe; for the directive power of the law, which is certain, and grounded upon the inherent good and rectitude that is in it, is that alone which has a power over the conſcience, whereas the coercive is merely contingent; and the moſt juſt powers, commanding the moſt juſt things, have ſo often fallen under the violence of the moſt unjuſt men, commanding the moſt execrable villainies, that if they were therefore to be obeyed,

* Trajanus reſcripſit, hoc genus inquirendos quidem non eſſe, oblatos verò puniri oportere. O ſententiam neceſſitate confuſam! negat inquirendos, ut innocentes, et mandat puniendos ut nocentes: parcit et ſaevit, diſſimulat et animadvertit. Tertul. Apol. p. 4

† Tulit legem Evenus, ut cuivis liceret, pro opibus quot alere poſſet, uxores ducere; ut rex ante nuptias ſponſarum nobilium, nobiles plebeiarum praelibarent pudicitiam, ut plebeiorum uxores cum nobilitate communes eſſent. Buch. l. 4, c. 16

‡ Aquin. quaeſt. 95, art. 4. tom. 2

the

the conſciences of men muſt be regulated by the ſucceſs of a battle or conſpiracy; than which nothing can be affirmed more impious and abſurd. By this rule, David was not to be obeyed, when by the wickedneſs of his ſon he was driven from Jeruſalem, and deprived of all coercive power; and the conſcientious obedience that had been due to him was transferred to Abſalom, who ſought his life. And in St. Paul's time it was not from him, who was guided only by the Spirit of God, and had no manner of coercive power, that Chriſtians were to learn their duty, but from Caligula, Claudius, and Nero, who had that power well eſtabliſhed by the mercenary legions. If this were ſo, the governments of the world might be juſtly called "magna latrocinia *;" and men laying aſide all conſideration of reaſon or juſtice, ought only to follow thoſe, who can inflict the greateſt puniſhments, or give the greateſt rewards. But ſince the reception of ſuch opinions would be the extirpation of all that can be called good, we muſt look for another rule of our obedience; and ſhall find that to be the law, which being, as I ſaid before, "ſanctio recta," muſt be founded upon that eternal principle of reaſon and truth, from whence the rule of juſtice, which is ſacred and pure, ought to be deduced, and not from the depraved will of man, which, fluctuating according to the different intereſts, humours, and paſſions, that at ſeveral times reign in ſeveral nations, one day abrogates what had been enacted the other. The ſanction therefore, that deſerves the name of a law, "which derives not its excellency from antiquity, or from the dignity of the legiſlators, but from an intrinſic equity and juſtice †," ought to be made, in purſuance of that univerſal reaſon, to which all nations, at all times, owe an equal veneration and obedience. By this we may know, whether he who has the power does juſtice or not; whether he be the miniſter of God to our good, a protector of good, and a terror to ill men; or the miniſter of the devil to our hurt, by encouraging all manner of evil, and endeavouring, by vice and corruption, to make the people worſe, that they may be miſerable, and miſerable, that they may be worſe. I dare not ſay, I ſhall never fear ſuch a man, if he be armed with power; but I am ſure I ſhall never eſteem him to be the miniſter of God, and ſhall think I do ill if I fear him. If he has therefore a coercive power over me, it is through my weakneſs; "for he that will ſuffer himſelf to be compelled knows not "how to die ‡." If therefore he, who does not follow the directive power of the law, be not the miniſter of God, he is not a king, at leaſt not ſuch a king as the apoſtle commands us to obey. And if that ſanction, which is not juſt, be not a law, and can have no obligation upon us, by what power ſoever it be eſtabliſhed, it may well fall out, that the magiſtrate, who will not follow the directive power of the law, may fall under the coercive, and then the fear is turned upon him, with this aggravation, that it is not only actual, but juſt. This was the caſe of Nero: the coer-

SECT. II

* Remotâ juſtitiâ, quid ſunt regna, niſi magna latrocinia? Aug. de Civ. Dei, l. 4, c. 4

† Tertul. Apol. p. 6. Vide ſuprà, p. 308

‡ Cogi qui poteſt neſcit mori. Sen. Herc. Fur. act. 2, ſc. 3, v. 90

CHAP. III cive power was no longer in him, but againſt him. He that was forced to fly, and to hide himſelf, that was abandoned by all men, and condemned to die "according to antient cuſtom *," did, as I ſuppoſe, fear, and was no way to be feared. The like may be ſaid of Amaziah king of Judah, when he fled to Lachiſh; of Nabuchodonoſor, when he was driven from the ſociety of men; and of many emperors and kings of the greateſt nations in the world, who have been ſo utterly deprived of all power, that they have been impriſoned, depoſed, confined to monaſteries, killed, drawn through the ſtreets, cut in pieces, thrown into rivers, and indeed ſuffered all that could be ſuffered by the vileſt ſlaves.

If any man ſay theſe things ought not to have been done, an anſwer may be given in a proper place; though it were enough to ſay, that the juſtice of the world is not to be overthrown by a mere aſſertion without proof; but that is nothing to the preſent queſtion: for if it was ill done to drive Nero to deſpair, or to throw Vitellius into the Tiber, it was not becauſe they were the miniſters of God; for their lives were no way conformable to the character which the apoſtle gives of thoſe who deſerve that ſacred name. If thoſe only are to be feared who have the power, there was a time when they were not to be feared, for they had none; and if thoſe princes are not obliged by the law, who are not under the coercive power, it gave no exemption to theſe, for they fell under it: and as we know not what will befal others who walk in their ſteps, till they are dead, we cannot till then know whether they are free from it or not.

SECTION XII

THE RIGHT AND POWER OF A MAGISTRATE DEPENDS UPON HIS INSTITUTION, NOT UPON HIS NAME.

It is uſual with impoſtors to obtrude their deceits upon men, by putting falſe names upon things, by which they may perplex mens minds, and from thence deduce falſe concluſions. But the points above-mentioned being ſettled, it imports little whether the governors, to whom Peter injoins obedience, were only kings, and ſuch as are employed by them, or all ſuch magiſtrates as are the miniſters of God; for he informs us of their works, that we may know them, and accordingly yield obedience to them. This is that therefore which diſtinguiſhes the magiſtrate to whom obedience is due, from him to whom none is due, and not the name that he either aſſumes, or others put upon him. But if there be any virtue in the word king, and the admirable prerogatives, of which our author dreams, were annexed to that name, they could not be applied to the

* Inter moras perlatos à curſore Phaontis codicilos praeripuit, legitque, "ſe hoſtem à "ſenatu judicatum, et quaeri, ut puniatur, more majorum." Suet. in vitâ Ner. § 49.

Roman

Roman emperors, nor their ſubſtituted officers, for they had it not. It is SECT. 12
true, Mark Antony, in a drunken fit, at the celebration of the impure Lupercalia, did offer a diadem to Julius Caeſar, which ſome flatterers preſſed him to accept (as our great lawyers did Cromwell) but he durſt not think of putting it upon his head. Caligula's affectation of that title, and the enſigns of royalty he wore, were taken for the moſt evident marks of his madneſs. And though the greateſt and braveſt of their men had fallen by the wars or proſcriptions, though the beſt part of the ſenate had periſhed in Theſſaly, though the great city was exhauſted, and Italy brought to deſolation, yet they were not reduced ſo low as to endure a king. Piſo was ſufficiently addicted to Tiberius, yet he could not ſuffer, that Germanicus ſhould be treated as the ſon of a king; "principis "Romani, non Parthi regis filio eas epulas dari*." And whoever underſtands the Latin tongue, and the hiſtory of thoſe times, will eaſily perceive, that the word "princeps" ſignified no more than a principal or eminent man, as has been already proved: and the words of Piſo could have no other meaning, than that the ſon of a Roman ought not to be diſtinguiſhed from others, as the ſons of the Parthian kings were. This is verified by his letter to Tiberius, under the name of friend, and the anſwer of Tiberius promiſing to him "whatever one friend could do for "another†." Here was no mention of majeſty, or ſovereign lord, nor the baſe ſubſcriptions of ſervant, ſubject, or creature. And I fear, that as the laſt of thoſe words was introduced among us by our biſhops, the reſt of them had been alſo invented by ſuch Chriſtians as were too much addicted to the Aſiatic ſlavery. However, the name of king was never ſolemnly aſſumed by, nor conferred upon thoſe emperors; and could have conferred no right if it had. They exerciſed as they pleaſed, or as they durſt, the power that had been gained by violence or fraud. The exorbitances they committed could not have been juſtified by a title, any more than thoſe of a pirate, who ſhould take the ſame. It was no otherwiſe given to them than by way of aſſimilation, when they were guilty of the greateſt crimes: and Tacitus, deſcribing the deteſtable luſt of Tiberius, ſays, "quibus adeò indomitis exarſerat, ut more regio pubem ingenuam "ſtupris pollueret; nec formam tantùm, et decora corpora, ſed in his "modeſtam pueritiam, in aliis imagines majorum, incitamentum cupidi-"nis habebat‡." He alſo informs us, that Nero took his time to put Barea Soranus to death, who was one of the moſt virtuous men of that age, when Tiridates king of Armenia was at Rome, "that he might "ſhew the imperial grandeur by the ſlaughter of the moſt illuſtrious men, "which he accounted a royal action §." I leave it to the judgment of

* Vox ejus [Piſonis] audita eſt in convivio, cùm apud regem Nabathaeorum coronae aureae magno pondere Caeſari [Germanico] et Agrippinae, leves Piſoni et caeteris offerrentur, "principis Romani, non Parthi regis filio eas epulas dari." Tacit. Annal. l. 2, § 57

† Tacit. Annal. l. 4, § 16, 17. * * *

‡ Annal. l. 6, § 1

§ Ut magnitudinem imperatoriam caede inſignium virorum, quaſi regio facinore, oſtentaret. Annal. l. 16, § 23

CHAP. III all wiſe men, whether it be probable, that the apoſtles ſhould diſtinguiſh ſuch as theſe from other magiſtrates, and dignify thoſe only with the title of God's miniſters, who diſtinguiſhed themſelves by ſuch ways; or that the ſucceeding emperors ſhould be ennobled with the ſame prerogative, who had no other title to the name, than by reſembling thoſe that had it in ſuch things as theſe. If this be too abſurd and abominable to enter into the heart of a man, it muſt be concluded, that their intention was only to divert the poor people to whom they preached, from involving themſelves in the care of civil matters, to which they had no call. And the counſel would have been good, as things ſtood with them, if they had been under the power of a pirate, or any other villain, ſubſtituted by him.

But though the apoſtles had looked upon the officers ſet over the provinces belonging to the Roman empire, as ſent by kings, I deſire to know, whether it can be imagined, that they could think the ſubordinate governors to be ſent by kings, in the countries that had no kings; or that obedience became due to the magiſtrates in Greece, Italy, or other provinces under the juriſdiction of Rome, only after they had emperors, and that none was due to them before? The Germans had then no king: the brave Arminius had been lately killed for aiming at a crown *. When he had blemiſhed all his virtues by that attempt, they forgot his former ſervices. They never conſidered how many Roman legions he had cut in pieces, nor how many thouſands of their allies he had deſtroyed. His valour was a crime deſerving death, when he fought to make a prey of his country, which he had ſo bravely defended, and to enſlave thoſe who with him had fought for the public liberty. But if the apoſtles were to be underſtood to give the name of God's miniſters only to kings, and thoſe who are employed by them, and obedience is due to no other, a domeſtic tyrant had been their greateſt benefactor. He had ſet up the only government that is authorized by God, and to which a conſcientious obedience is due. Agathocles, Dionyſius, Phalaris, Pheraeus, Piſiſtratus, Nabis, Machanidas, and an infinite number of the moſt deteſtable villains that the world has ever produced, did confer the ſame benefits upon the countries they enſlaved. But if this be equally falſe, ſottiſh, abſurd, and execrable, all thoſe epithets belong to our author, and his doctrine, for attempting to depreſs all modeſt and regular magiſtracies, and endeavouring to corrupt the Scripture to patronize the greateſt of crimes. No man therefore, who does not delight in error, can think, that the apoſtle deſigned preciſely to determine ſuch queſtions as might ariſe concerning any one man's right, or, in the leaſt degree, to prefer any one form of government before another. In acknowledging the magiſtrate to be man's ordinance, he declares, that man, who makes him to be, may make him to be what he pleaſes; and though there is found more prudence and virtue in one nation than in another, that magiſtracy, which is eſtabliſhed in any one, ought to be obeyed, till they who made the eſtabliſhment think fit to alter

* Tacit. Annal. l. 2, c. 88.

it.

it. All therefore, while they continue, are to be looked upon with the same respect. Every nation, acting freely, has an equal right to frame their own government, and to employ such officers as they please. The authority, right, and power, of these must be regulated by the judgment, right, and power, of those who appoint them, without any relation at all to the name that is given; for that is no way essential to the thing. The same name is frequently given to those, who differ exceedingly in right and power; and the same right and power is as often annexed to magistracies, that differ in name. The same power which had been in the Roman kings, was given to the consuls; and that which had been legally in the dictators, for a time not exceeding six months, was afterwards usurped by the Caesars, and made perpetual. The supreme power, which some pretend belongs to all kings, has been and is enjoyed in the fullest extent by such as never had the name; and no magistracy was ever more restrained than those that had the name of kings in Sparta, Arragon, England, Poland, and other places. They therefore that did thus institute, regulate, and restrain, create magistracies, and give them names and powers, as seemed best to them, could not but have in themselves the coercive as well as the directive over them, for the regulation and restriction is coercion; but most of all the institution, by which they could make them to be or not to be. As to the exterior force, it is sometimes on the side of the magistrate, and sometimes on that of the people; and as magistrates, under several names, have the same work incumbent upon them, and the same power to perform it, the same duty is to be exacted from them, and rendered to them: which being distinctly proportioned by the laws of every country, I may conclude, that all magistratical power, being the ordinance of man, in pursuance of the ordinance of God, receives its being and measure from the legislative power of every nation. And whether the power be placed simply in one, a few, or many men, or in one body composed of the three simple species; whether the single person be called king, duke, marquis, emperor, sultan, mogul, or grand signior; or the number go under the name of senate, council, pregadi, diet, assembly of estates, and the like, it is the same thing. The same obedience is equally due to all, whilst, according to the precept of the apostle, they do the work of God for our good: and if they depart from it, no one of them has a better title than the other to our obedience. SECT. 13

SECTION XIII

LAWS WERE MADE TO DIRECT AND INSTRUCT MAGISTRATES, AND IF THEY WILL NOT BE DIRECTED, TO RESTRAIN THEM.

I know not who they are, that our author introduces to say, that "the "first invention of laws was, to bridle or moderate the over great power "of kings;" and unless they give some better proof of their judgment in other

CHAP. III other things, ſhall little eſteem them. They ſhould have conſidered, that there are laws in many places where there are no kings; that there were laws in many before there were kings, as in Iſrael, the law was given three hundred years before they had any; but eſpecially, that as no man can be a rightful king, except by law, nor have any juſt power, but from the law, if that power be found to be over great, the law that gave it muſt have been before that which was to moderate, or reſtrain it; for that could not be moderated, which was not in being. Leaving therefore our author to fight with theſe adverſaries, if he pleaſes, when he finds them, I ſhall proceed to examine his own poſitions. "The truth is," ſays he, "the original of laws was, for the keeping of the multitude in "order. Popular eſtates could not ſubſiſt at all without laws; whereas "kingdoms were governed many ages without them. The people of "Athens, as ſoon as they gave over kings, were forced to give power "to Draco firſt, then to Solon, to make them laws." If we will believe him therefore, wherever there is a king, or a man, who, by having power in his hands, is in the place of a king, there is no need of law. He takes them all to be ſo wiſe, juſt, and good, that they are laws to themſelves, "leges viventes." This was certainly verified by the whole ſucceſſion of the Caeſars, the ten laſt kings of Pharamond's race, all the ſucceſſors of Charles the Great, and others, that I am not willing to name; but, referring myſelf to hiſtory, I deſire all reaſonable men to conſider, whether the piety and tender care, that was natural to Caligula, Nero, or Domitian, was ſuch a ſecurity to the nations that lived under them, as without law to be ſufficient for their preſervation: for, if the contrary appear to be true, and their government was a perpetual exerciſe of rage, malice, and madneſs, by which the worſt of men were armed with power to deſtroy the beſt, ſo that the empire could only be ſaved by their deſtruction, it is moſt certain, that mankind can never fall into a condition, which ſtands more in need of laws to protect the innocent, than when ſuch monſters reign, who endeavour their extirpation, and are too well furniſhed with means to accompliſh their deteſtable deſigns. Without any prejudice therefore to the cauſe I defend, I might confeſs, that all nations were at the firſt governed by kings; and that no laws were impoſed upon thoſe kings, till they, or the ſucceſſors of thoſe, who had been advanced for their virtues, by falling into vice and corruption, did manifeſtly diſcover the inconveniences of depending upon their will. Beſides theſe, there are alſo children, women, and fools, that often come to the ſucceſſion of kingdoms, whoſe weakneſs and ignorance ſtand in as great need of ſupport and direction, as the deſperate fury of the others can do of reſtriction. And if ſome nations had been ſo ſottiſh, as not to foreſee the miſchief of leaving them to their will, others, or the ſame in ſucceeding ages diſcovering them, could no more be obliged to continue in ſo pernicious a folly, than we are to live in that wretched barbarity, in which the Romans found our anceſtors, when they firſt entered this iſland.

If

If any man ſay, that Filmer does not ſpeak of monſters, nor of children, women, or fools, but of wiſe, juſt, and good princes, I anſwer, that if there be a right inherent in kings, as kings, of doing what they pleaſe, and in thoſe who are next in blood, to ſucceed them, and inherit the ſame, it muſt belong to all kings, and ſuch as upon title of blood would be kings. And as there is no family that may not, and does not often produce ſuch as I mentioned, it muſt alſo be acknowledged in them; and that power which is left to the wiſe, juſt, and good, upon a ſuppoſition, that they will not make an ill uſe of it, muſt be devolved to thoſe, who will not or cannot make a good one; but will either maliciouſly turn it to the deſtruction of thoſe they ought to protect, or through weakneſs ſuffer it to fall into the hands of thoſe that govern them, who are found by experience to be for the moſt part the worſt of all, moſt apt to uſe the baſeſt arts, and to flatter the humours, and foment the vices, that are moſt prevalent in weak and vicious princes. Germanicus, Corbulo, Valerius Aſiaticus, Thraſea, Soranus, Helvidius Priſcus, Julius Agricola, and other excellent men, lived in the times of Tiberius, Caligula, Claudius, and Nero; but the power was put into the hands of Sejanus, Macro, Tigellinus, and other villains like to them: and I wiſh there were not too many modern examples to ſhew, that weak and vicious princes will never chooſe ſuch as ſhall preſerve nations from the miſchiefs that would enſue upon their own incapacity or malice; but that they muſt be impoſed upon them by ſome other power, or nations be ruined for want of them. This impoſition muſt be by law, or by force. But as laws are made to keep things in good order without the neceſſity of having recourſe to force, it would be a dangerous extravagance to arm that prince with force, which probably in a ſhort time muſt be oppoſed by force. And thoſe who have been guilty of this error, as the kingdoms of the eaſt, and the antient Roman empire, where no proviſion was made by law againſt ill-governing princes, have found no other remedy than to kill them, when by extreme ſufferings they were driven beyond patience: and this fell out ſo often, that few of their princes were obſerved to die by a common death. But ſince the empire was tranſmitted to Germany, and the emperors reſtrained by laws, that nation has never been brought to the odious extremities of ſuffering all manner of indignities, or revenging them upon the heads of princes. And if the pope had not diſturbed them upon the account of religion, nor driven their princes to diſturb others, they might have paſſed many ages without any civil diſſenſion, and all their emperors might have lived happily, and died peaceably, as moſt of them have done.

SECT. 13

This might be ſufficient to my purpoſe: for, if all princes without diſtinction, whether good or bad, wiſe or fooliſh, young or old, ſober or mad, cannot be entruſted with an unlimited power; and if the power they have, ought to be limited by law, that nations may not with danger to themſelves, as well as to the prince, have recourſe to the laſt remedy, this law muſt be given to all, and the good can be no otherwiſe diſtinguiſhed from the bad, and the wiſe from the fooliſh, than by the obſer-

CHAP. III. vation or violation of it. But I may juſtly go a ſtep farther, and affirm, that this law, which, by reſtraining the luſts of the vicious and fooliſh, frequently preſerves them from the deſtruction they would bring upon themſelves or people, and ſometimes upon both, is an aſſiſtance and direction to the wiſeſt and beſt; ſo that they alſo, as well as the nations under them, are gainers by it. This will appear ſtrange only to thoſe who know not "how difficult and inſupportable the government of great "nations is *," and how unable the beſt man is to bear it. And, if it ſurpaſs the ſtrength of the beſt, it may eaſily be determined how ordinary men will behave themſelves under it, or what uſe the worſt will make of it. I know there have been wiſe and good kings; but they had not an abſolute power, nor would have accepted it, though it had been offered: much leſs can I believe, that any of them would have tranſmitted ſuch a power to their poſterity, when none of them could know any more than Solomon, whether his ſon would be a wiſe man or a fool. But if the beſt might have deſired, and had been able to bear it (though Moſes by his own confeſſion was not) that could be no reaſon why it ſhould be given to the worſt and weakeſt, or thoſe who probably will be ſo. Since the aſſurance, that it will not be abuſed during the life of one man, is nothing to the conſtitution of a ſtate which aims at perpetuity. And no man knowing what men will be, eſpecially if they come to the power by ſucceſſion, which may properly enough be called by chance, it is reaſonably to be feared they will be bad, and conſequently it is neceſſary ſo to limit their power, that if they prove to be ſo, the commonwealth may not be deſtroyed, which they were inſtituted to preſerve. The law provides for this in leaving to the king a full and ample power of doing as much good as his heart can wiſh, and in reſtraining his power ſo, that if he ſhould depart from the duty of his office, the nation may not periſh. This is a help to thoſe who are wiſe and good, by directing them what they are to do, more certainly than any one man's perſonal judgment can do; and no prejudice at all, ſince no ſuch man did ever complain he was not ſuffered to do the evil, which he would abhor, if it were in his power; and is a moſt neceſſary curb to the fury of bad princes, preventing them from bringing deſtruction upon the people. Men are ſo ſubject to vices, and paſſions, that they ſtand in need of ſome reſtraint in every condition; but eſpecially when they are in power. The rage of a private man may be pernicious to one or a few of his neighbours; but the fury of an unlimited prince would drive whole nations into ruin. And thoſe very men, who have lived modeſtly when they had little power, have often proved the moſt ſavage of all monſters, when they thought nothing able to reſiſt their rage. It is ſaid of Caligula, that no man ever knew "a better ſervant, nor

* After the death of Auguſtus, Tiberius told the ſenate, "ſe in partem curarum ab illo "vocatum, experiendo didiciſſe, quàm arduum, quàm ſubjectum fortunae, regendi cuncta "onus." Tacit. Annal. l. 1, § 11

" a worſe maſter *." The want of reſtraint made him a beaſt, who might have continued to be a man. And though I cannot ſay, that our law neceſſarily admits the next in blood to the ſucceſſion, for the contrary is proved, yet the facility of our anceſtors, in receiving children, women, or ſuch men as were not more able than themſelves to bear the weight of a crown, convinces me fully, that they had ſo framed our laws, that even children, women, or ill men, might either perform as much as was neceſſarily required of them, or be brought to reaſon, if they tranſgreſſed, and arrogated to themſelves more than was allowed. For it is not to be imagined, that a company of men ſhould ſo far degenerate from their own nature, which is reaſon, as to give up themſelves, and their poſterity, with all their concernments in the world, to depend upon the will of a child, a woman, an ill man, or a fool. SECT. 13

If therefore laws are neceſſary to popular ſtates, they are no leſs to monarchies; or rather, that is not a ſtate or government, which has them not: and it is no leſs impoſſible for any to ſubſiſt without them, than for the body of a man to be, and perform its functions, without nerves or bones. And if any people had ever been ſo fooliſh as to eſtabliſh that which they called a government, without laws to ſupport and regulate it, the impoſſibility of ſubſiſting would evidence the madneſs of the conſtitution, and ought to deter all others from following their example.

It is no leſs incredible, that thoſe nations which rejected kings did put themſelves into the power of one man, to preſcribe to them ſuch laws as he pleaſed. But the inſtances alleged by our author are evidently falſe. The Athenians were not without laws when they had kings: Aegeus was ſubject to the laws, and did nothing of importance without the conſent of the people; and Theſeus, not being able to pleaſe them, died a baniſhed man. Draco and Solon did not make, but propoſe laws †; and they were of no force till they were eſtabliſhed by the authority of the people. The Spartans dealt in the ſame manner with Lycurgus: he invented their laws, but the people made them. And, when the aſſembly of all the citizens had approved and ſworn to obſerve them till his return from Crete, he reſolved rather to die in a voluntary baniſhment, than by his return to abſolve them from the oath they had taken. The Romans alſo had laws during the government of their kings; but not finding in them that perfection they deſired, the decemviri were choſen to frame others, which yet were of no value till they were paſſed by the people in the " comitia " centuriata;" and being ſo approved, they were eſtabliſhed ‡. But this ſanction, to which every man, whether magiſtrate or private citizen, was ſubject, did no way bind the whole body of the people, who ſtill

* Tanti in avum, et qui juxta erant, obſequii, ut non immeritò ſit dictum, " nec " ſervum meliorem ullum, nec deteriorem dominum fuiſſe." Suet. in vitâ Calig. § 10. Tacit. Annal. l. 6, § 20

† Vide Plut. in vitâ Solonis.

‡ Ingenti hominum expectatione propoſitis decem tabulis populum ad concionem advocaverunt; et quod bonum, fauſtum, felixque ſit reipublicae, ipſis, liberiſque eorum eſſet, ire, et legere leges propoſitas juſſêre. Liv. l. 3, c. 34

CHAP. III retained in themſelves the power of changing both the matter and the form of their government, as appears by their inſtituting and abrogating kings, conſuls, dictators, tribunes with conſular power, and decemviri, when they thought good for the commonwealth. And if they had this power, I leave our author to ſhew, why the like is not in other nations.

SECTION XIV

LAWS ARE NOT MADE BY KINGS, NOT BECAUSE THEY ARE BUSIED IN GREATER MATTERS THAN DOING JUSTICE, BUT BECAUSE NATIONS WILL BE GOVERNED BY RULE, AND NOT ARBITRARILY.

Our author purſuing the miſtakes to which he ſeems perpetually condemned, ſays, that "when kings were either buſied with wars, or diſ- "tracted with public cares, ſo that every private man could not have "acceſs to their perſons, to learn their wills and pleaſure, then of neceſſity "were laws invented, that ſo every particular ſubject might find his "prince's pleaſure." I have often heard, that governments were eſtabliſhed for the obtaining of juſtice; and if that be true it is hard to imagine what buſineſs a ſupreme magiſtrate can have to divert him from accompliſhing the principal end of his inſtitution. And it is as commonly ſaid, that this diſtribution of juſtice to a people, is a work ſurpaſſing the ſtrength of any one man. Jethro ſeems to have been a wiſe man, and it is probable he thought Moſes to be ſo alſo; but he found the work of judging the people to be too heavy for him, and therefore adviſed him to leave the judgment of cauſes to others, who ſhould be choſen for that purpoſe*; which advice Moſes accepted, and God approved. The governing power was as inſupportable to him as the judicial. He deſired rather to die than to bear ſo great a burden; and God, neither accuſing him of ſloth nor impatience, gave him ſeventy aſſiſtants. But if we may believe our author, the powers judicial and legiſlative, that of judging, as well as that of governing, are not too much for any man, woman, or child, whatever; he ſtands in no need, either of God's ſtatutes to direct him, or man's counſel to aſſiſt him, unleſs it be when he is otherwiſe employed; and his will alone is ſufficient for all. But what if he be not buſied in greater matters, or diſtracted with public cares, is every prince capable of this work? Though Moſes had not found it too great for him, or it ſhould be granted, that a man of excellent natural endowments, great wiſdom, learning, experience, induſtry, and integrity, might perform it, is it certain, that all thoſe who happen to be born in reigning families are ſo? If Moſes had the law of God before his eyes, and could repair to

* Exod. ch. 17, v. 17—24

God

God himſelf for the application or explanation of it, have all princes the ſame aſſiſtance? Do they all ſpeak with God face to face, or can they do what he did, without the aſſiſtance he had? If all kings of mature years are of that perfection, are we aſſured, that none ſhall die before his heir arrive to the ſame? Or ſhall he have the ſame ripeneſs of judgment in his infancy? If a child come to a crown, does that immediately infuſe the moſt admirable endowments and graces? Have we any promiſe from heaven, that women ſhall enjoy the ſame prerogatives, in thoſe countries where they are made capable of the ſucceſſion? Or does that law which renders them capable, not only defend them againſt the frailty of their own nature, but confer the moſt ſublime virtues upon them? But who knows not, that no families do more frequently produce weak or ill men, than the greateſt? and that which is worſe, their greatneſs is a ſnare to them; ſo that they who in a low condition might have paſſed unregarded, being advanced to the higheſt, have often appeared to be, or become the worſt of all beaſts. And they who advance them are like to them: for if the power be in the multitude, as our author is forced to confeſs (otherwiſe the Athenians and Romans could not have given all, as he ſays, nor a part, as I ſay, to Draco, Solon, or the decemviri) they muſt be beaſts alſo, who ſhould have given away their right and liberty, in hopes of receiving juſtice from ſuch as probably will neither underſtand nor regard it, or protection from thoſe who will not be able to help themſelves, and expect ſuch virtue, wiſdom, and integrity, ſhould be, and for ever remain, in the family they ſet up, as was never known to continue in any. If the power be not conferred upon them, they have it not; and if they have it not, their want of leiſure to do juſtice cannot have been the cauſe for which laws are made; and they cannot be the ſignification of their will, but are that to which the prince owes obedience, as well as the meaneſt ſubject. This is that which Bracton calls, "eſſe ſub lege," and ſays, that "rex in regno ſuperiores habet Deum et legem *." Forteſcue ſays, the kings of England cannot change the laws †. And indeed, they are ſo far from having any ſuch power, that the judges ſwear to have no regard to the king's letters or commands, but if they receive any, to proceed according to law, as if they had not been. And the breach of this oath does not only bring a blemiſh upon their reputation, but expoſes them to capital puniſhments, as many of them have found. It is not therefore the king that makes the law, but the law that makes the king. It gives the rule for ſucceſſion, making kingdoms ſometimes hereditary, and ſometimes elective, and (oftner than either ſimply) hereditary under condition. In ſome places males only are capable of inheriting, in others females are admitted. Where the monarchy is regular, as in Germany,

SECT. 14

* Ipſe autem rex non debet eſſe ſub homine, ſed ſub Deo et ſub lege, quia lex facit regem. Bract. l. 1, c. 8, fol. 5.—Rex habet ſuperiorem, Deum ſcilicet item legem, per quam factus eſt rex. Bract. l. 2, c. 16, fol. 33

† Non poteſt rex Angliae ad libitum ſuum leges mutare regni ſui: principatu namque nedum regali, ſed et politico ipſe ſuo populo dominatur. Forteſc. de Laud. Leg. Angl. c. 9

CHAP. III England, &c. the kings can neither make nor change laws. They are under the law, and the law is not under them; their letters or commands are not to be regarded. In the adminiſtration of juſtice, the queſtion is not what pleaſes them, but what the law declares to be right, which muſt have its courſe, whether the king be buſy, or at leiſure, whether he will or not. The king who never dies, is always preſent in the ſupreme courts, and neither knows nor regards the pleaſure of the man, that wears the crown. But leſt by his riches and power he might have ſome influence upon judicial proceedings, the Great Charter, that recapitulates and acknowledges our antient inherent liberties, obliges him to ſwear, that he will neither ſell, delay, nor deny juſtice to any man, according to the laws of the land *: which were ridiculous and abſurd, if thoſe laws were only the ſignification of his pleaſure, or any way depended upon his will. This charter having been confirmed by more than thirty parliaments, all ſucceeding kings are under the obligation of the ſame oath, or muſt renounce the benefit they receive from our laws; which if they do, they will be found to be equal to every one of us.

Our author, according to his cuſtom, having laid down a falſe propoſition, goes about to juſtify it by miſapplying the examples of Draco, Solon, the decemviri, and Moſes, of whom no one had the power he attributes to them; and it were nothing to us, if they had. The Athenians and Romans, as was ſaid before, were ſo far from reſigning the abſolute power without appeal to themſelves, that nothing done by their magiſtrates was of any force, till it was enacted by the people. And the power given to the decemviri, "ſine provocatione," was only in private caſes, there being no ſuperior magiſtrate, then in being, to whom appeals could be made. They were veſted with the ſame power the kings and dictators enjoyed, from whom there lay no appeal, but to the people, and always to them; as appears by the caſe of Horatius, in the time of Tullus Hoſtilius; that of Marcus Fabius, when Papirius Curſor was dictator; and of Metellus the tribune, when Q. Fabius Maximus was in the ſame office †; all which I have cited already, and refer to them. There was therefore a reſervation of the ſupreme power in the people, notwithſtanding the creation of magiſtrates without appeal: and as it was quietly exerciſed in making ſtrangers, or whom they pleaſed, kings, reſtraining the power of dictators to ſix months, and that of the decemviri to two years, when the laſt did, contrary to law, endeavour, by force, to continue their power, the people did, by force, deſtroy it and them.

The caſe of Moſes is yet more clear. He was the moſt humble and gentle of all men: he never raiſed his heart above his brethren, and commanded kings to live in the ſame modeſty: he never deſired the people ſhould depend upon his will: in giving laws to them he fulfilled the will of God, not his own; and thoſe laws were not the ſignification of his will,

* Nulli vendemus, nulli negabimus, aut differemus rectum vel juſtitiam. Mag. Chart. c. 29.
† Liv. l. 1, c. 26. Id. l. 8, c. 33. Id. l. 22, c. 25.

but of the will of God. They were the production of God's wiſdom and goodneſs, not the invention of man; given to purify the people, not to advance the glory of their leader. He was not proud and inſolent, nor pleaſed with that oſtentation of pomp, to which fools give the name of majeſty. And whoever ſo far exalts the power of a man, as to make nations depend upon his pleaſure, does not only lay a burden upon him, which neither Moſes, nor any other could ever bear, and every wiſe man will always abhor; but, with an impious fury, endeavours to ſet up a government contrary to the laws of God, preſumes to accuſe him of want of wiſdom, or goodneſs to his own people, and to correct his errors: which is a work fit to be undertaken by ſuch as our author. SECT. 14

From hence, as upon a ſolid foundation, he proceeds, and making uſe of king James's words, infers, that kings are above the laws, becauſe he ſo teaches us. But he might have remembered, that, having affirmed the people could not judge of the diſputes that might happen between them and kings, becauſe they muſt not be judges in their own caſe, it is abſurd to make a king judge of a caſe ſo nearly concerning himſelf, in the deciſion of which his own paſſions and intereſts may probably lead him into errors. And if it be pretended that I do the ſame, in giving the judgment of thoſe matters to the people, the caſe is utterly different, both in the nature and conſequences. The king's judgment is merely for himſelf; and if that were to take place, all the paſſions and vices, that have moſt power upon men, would concur to corrupt it. He that is ſet up for the public good can have no conteſt with the whole people, whoſe good he is to procure, unleſs he deflect from the end of his inſtitution, and ſet up an intereſt of his own in oppoſition to it. This is in its nature the higheſt of all delinquencies; and if ſuch a one may be judge of his own crimes, he is not only ſure to avoid puniſhment, but to obtain all that he fought by them; and the worſe he is, the more violent his deſires will be, to get all the power into his hands, that he may gratify his luſts, and execute his pernicious deſigns. On the other ſide, in a popular aſſembly, no man judges for himſelf, otherwiſe, than as his good is comprehended in that of the public. Nothing hurts him, but what is prejudicial to the commonwealth. Such among them as may have received private injuries, are ſo far only conſidered by others, as their ſufferings may have influence upon the public: if they be few, and the matters not great, others will not ſuffer their quiet to be diſturbed by them; if they are many and grievous, the tyranny thereby appears to be ſo cruel, that the nation cannot ſubſiſt, unleſs it be corrected or ſuppreſſed. Corruption of judgment proceeds from private paſſions, which in theſe caſes never govern: and though a zeal for the public good may poſſibly be miſguided, yet till it be ſo, it can never be capable of exceſs. The laſt Tarquin, and his lewd ſon, exerciſed their fury and luſt in the murders of the beſt men in Rome, and the rape of Lucretia. Appius Claudius was filled with the like madneſs. Caligula and Nero were ſo well eſtabliſhed in the power of committing the worſt of villainies, that we do not hear of any man that offered to defend himſelf,

CHAP. III himſelf, or woman that preſumed to refuſe them. If they had been judges in theſe caſes, the utmoſt of all villainies and miſchiefs had been eſtabliſhed by law: but as long as the judgment of theſe matters was in the people, no private or corrupt paſſion could take place. Lucius Brutus, Valerius, Horatius, and Virginius, with the people that followed them, did not by the expulſion of the kings, or the ſuppreſſion of the decemviri, aſſume to themſelves a power of committing rapes and murders, nor any advantages beyond what their equals might think they deſerved by their virtues, and ſervices to the commonwealth; nor had they more credit than others for any other reaſon, than that they ſhewed themſelves moſt forward in procuring the public good, and by their valour and conduct beſt able to promote it.

Whatever happened, after the overthrow of their liberty, belongs not to my ſubject, for there was nothing of popularity in the judgments that were made. One tyrant deſtroyed another; the ſame paſſions and vices for the moſt part reigned in both. The laſt was often as bad as his predeceſſor whom he had overthrown; and one was ſometimes approved by the people for no other reaſon, than that it was thought impoſſible for him to be worſe than he who was in poſſeſſion of the power. But if one inſtance can be of force among an infinite number of various accidents, the words of Valerius Aſiaticus *, who, by wiſhing he had been the man that had killed Caligula, did in a moment pacify the fury of the ſoldiers, who were looking for thoſe that had done it, ſhew, that as long as men retain any thing of that reaſon which is truly their nature, they never fail of judging rightly of virtue and vice. Whereas violent and ill princes have always done the contrary, and even the beſt do often deflect from the rules of juſtice; as appears not only by the examples of Edward the firſt and third, who were brought to confeſs it, but even thoſe of David and Solomon.

Moreover, to ſhew that the deciſion of theſe controverſies cannot belong to any king, but to the people, we are only to conſider, that as kings, and all other magiſtrates, whether ſupreme or ſubordinate, are conſtituted only for the good of the people, the people only can be fit to judge whether the end be accompliſhed. A phyſician does not exerciſe his art for himſelf, but for his patients; and when I am, or think I ſhall be ſick, I ſend for him of whom I have the beſt opinion, that he may help me to recover, or preſerve my health; but I lay him aſide if I find him to be negligent, ignorant, or unfaithful; and it would be ridiculous for him to ſay, I make myſelf judge in my own caſe, for I only, or ſuch as I ſhall conſult, am fit to be the judge of it. He may be treacherous, and through corruption or malice endeavour to poiſon me, or have other defects, that render him unfit to be truſted: but I cannot, by any corrupt paſſion, be led wilfully to do him injuſtice, and if I miſtake, it is only to my own hurt. The like may be ſaid of lawyers, ſtewards, pilots, and

* Vide ſuprà, p. 195.

generally

generally of all that do not act for themſelves, but for thoſe who employ SECT. 15
them. And if a company going to the Indies ſhould find, that their pilot was mad, drunk or treacherous, they whoſe lives and goods are concerned can only be fit to judge, whether he ought to be truſted or not, ſince he cannot have a right to deſtroy thoſe he was choſen to preſerve; and they cannot be thought to judge perverſely, becauſe they have nothing to lead them but an opinion of truth, and cannot err but to their own prejudice. In the like manner, not only Solon and Draco, but Romulus, Numa, Hoſtilius, the conſuls, dictators, and decemviri, were not diſtinguiſhed from others, that it might be well with them, "ſed ut bonum, fauſtum "felixque ſit populo Romano *," but that the proſperity and happineſs of the people might be procured; which being the thing always intended, it were abſurd to refer the judgment of the performance to him who is ſuſpected of a deſign to overthrow it, and whoſe paſſions, intereſts, and vices, if he has any, lead him that way. If king James ſaid any thing contrary to this, he might be anſwered with ſome of his own words: "I "was," ſays he, "ſworn to maintain the laws of the land, and therefore "had been perjured if I had broken them †." It may alſo be preſumed, he had not forgotten what his maſter Buchanan had taught in the books he wrote chiefly for his inſtruction ‡, that the violation of the laws of Scotland could not have been ſo fatal to moſt of his predeceſſors, kings of that country, nor as he himſelf had made them to his mother, if kings as kings were above them.

SECTION XV

A GENERAL PRESUMPTION, THAT KINGS WILL GOVERN WELL, IS NOT A SUFFICIENT SECURITY TO THE PEOPLE.

"But," ſays our author, "yet will they rule their ſubjects by the law; "and a king, governing in a ſettled kingdom, leaves to be a king, and "degenerates into a tyrant, ſo ſoon as he ceaſes to rule according to his "laws: yet where he ſees them rigorous or doubtful, he may mitigate "and interpret." This is therefore an effect of their goodneſs; they are

* Vide ſuprà, p. 337.

† "My intention was always to effect union, by uniting Scotland to England, and not "England to Scotland: for I ever meant, being ever reſolved, that this law ſhould continue "in this kingdom; and two things moved me thereunto. One is, that in matter of policy "and ſtate, you ſhall never ſee any thing anciently and maturely eſtabliſhed, but by inno- "vation or alteration it is worſe than it was, I mean not by purging of it from corruptions, "and reſtoring it to the ancient integrity. Another reaſon was, I was ſworn to maintain "the law of the land, and therefore I had been perjured if I had altered it. And this I "ſpeak to root out the conceit, and miſapprehenſion, if it be in any heart, that I would "change, damnify, vilify, or ſuppreſs the law of this land: God is my judge I never "meant it; and this confirmation I make before you all." Speech in the Star-Chamber, 1616. King James's Works, p. 553.

‡ Rerum Scoticarum Hiſtoria, Dialogus de Jure Regni apud Scotos.

above

CHAP. III above laws, but will rule by law, we have Filmer's word for it. But I know not how nations can be aſſured their princes will always be ſo good: goodneſs is always accompanied with wiſdom, and I do not find thoſe admirable qualities to be generally inherent or entailed upon ſupreme magiſtrates. They do not ſeem to be all alike, and we have not hitherto found them all to live in the ſame ſpirit and principle. I can ſee no reſemblance between Moſes and Caligula, Joſhua and Claudius, Gideon and Nero, Samſon and Vitellius, Samuel and Otho, David and Domitian; nor indeed between the beſt of theſe and their own children. If the ſons of Moſes and Joſhua had been like to them in wiſdom, valour, and integrity, it is probable they had been choſen to ſucceed them; if they were not, the like is leſs to be preſumed of others. No man has yet obſerved the moderation of Gideon to have been in Abimelech; the piety of Eli in Hophni and Phineas; the purity and integrity of Samuel in Joel and Abiah, nor the wiſdom of Solomon in Rehoboam. And if there was ſo vaſt a difference between them, and their children, who doubtleſs were inſtructed by thoſe excellent men in the ways of wiſdom and juſtice, as well by precept as example, were it not madneſs to be confident, that they who have neither precept nor good example to guide them, but, on the contrary, are educated in an utter ignorance and abhorrence of all virtue, will always be juſt and good; or to put the whole power into the hands of every man, woman, or child, that ſhall be born in governing families, upon a ſuppoſition, that a thing will happen, which never did; or that the weakeſt and worſt will perform all that can be hoped, and was ſeldom accompliſhed by the wiſeſt and beſt, expoſing whole nations to be deſtroyed without remedy, if they do it not? And if this be madneſs in all extremity, it is to be preſumed, that nations never intended any ſuch thing, unleſs our author prove, that all nations have been mad from the beginning, and muſt always continue to be ſo. To cure this, he ſays, "they degenerate into tyrants;" and if he meant as he ſpeaks, it would be enough. For a king cannot degenerate into a tyrant by departing from that law, which is only the product of his own will. But if he do degenerate, it muſt be by departing from that, which does not depend upon his will, and is a rule preſcribed by a power that is above him. This indeed is the doctrine of Bracton, who, having ſaid, that the power of the king is the power of the law, becauſe the law makes him king, adds, "that if he do injuſtice, he ceaſes to be king, degenerates into a tyrant, "and becomes the vicegerent of the devil *." But I hope this muſt be underſtood with temperament, and a due conſideration of human frailty, ſo as to mean only thoſe injuries that are extreme; for otherwiſe he would terribly ſhake all the crowns of the world.

But leſt our author ſhould be thought once in his life to have dealt ſincerely, and ſpoken truth, the next lines ſhew the fraud of his laſt aſſer-

* Dum facit juſtitiam, vicarius eſt regis aeterni; miniſter autem diaboli, dum declinet ad injuriam . . . . rex eſt dum benè regit, tyrannus dum populum ſibi creditum violentâ opprimit dominatione. Bract. l. 3, c. 9, fol. 107

tion

tion, by giving to the prince a power of " mitigating and interpreting the SECT. 15
" laws, which he ſees to be rigorous or doubtful." But as he cannot degenerate into a tyrant by departing from the law, which proceeds from his own will, ſo he cannot mitigate or interpret that which proceeds from a ſuperior power, unleſs the right of mitigating or interpreting be conferred upon him by the ſame. For as all wiſe men confeſs, that " none " can abrogate, but thoſe who may inſtitute *," and that all mitigation and interpretation varying from the true ſenſe is an alteration, that alteration is an abrogation; for whatever is changed, is diſſolved †: and therefore the power of mitigating is inſeparable from that of inſtituting. This is ſufficiently evidenced by Henry the eighth's anſwer to the ſpeech made to him by the ſpeaker of the houſe of commons 1545, in which he, though one of the moſt violent princes we ever had, confeſſes the parliament to be the law-makers, and that an obligation lay upon him rightly to uſe the power with which he was entruſted ‡. The right therefore of altering being inſeparable from that of making laws, the one being in the parliament, the other muſt be ſo alſo. Forteſcue ſays plainly, the king cannot change any law. Magna Charta caſts all upon the laws of the land, and cuſtoms of England §: but to ſay, that the king can by his will make that to be a cuſtom, or an antient law, which is not, or that not to be ſo, which is, is moſt abſurd. He muſt therefore take the laws and cuſtoms as he finds them, and can neither detract from, nor add any thing to them. The ways are preſcribed as well as the end. Judgments are given by equals, " per pares." The judges, who may be aſſiſting to

* Cujus eſt inſtituere, ejus eſt abrogare.

† Quicquid mutatur, diſſolvitur: interit ergò.

‡ " I cannot a little rejoice, when I conſider the perfect truſt and confidence, which " you have put in me, and, as men having undoubted hope and unfeigned belief in my good " doings and juſt proceedings for you, without my deſire or requeſt have committed to mine " order and diſpoſition all chantries, colleges, hoſpitals, and other places ſpecified in a " certain act, firmly truſting that I will order them to the glory of God, and the profit of " the commonwealth. Surely if I, contrary to your expectation, ſhould ſuffer the miniſters " of the church to decay, or learning, which is ſo great a jewel, to be miniſhed, or poor " and miſerable people to be unrelieved, you might ſay, that I, being put into ſo ſpecial a " truſt, as I am in this caſe, were no truſty friend to you, nor charitable to mine, even as " a Chriſtian, neither a lover of the public wealth, nor yet one that feared God, to whom " account muſt be rendered of all our doings. . . . . To the making of laws, which you " have now made and concluded, I exhort you, the makers, to be as diligent in putting " them in execution, as you were in the making and furthering of the ſame, or elſe your " labour ſhall be in vain, and your commonwealth nothing relieved." Henry the eighth's laſt ſpeech to his parliament, 1545. See Herbert's Life of Hen. VIII

§ Nullus liber homo capiatur vel impriſonetur aut diſſeiſietur de libero tenemento ſuo, vel libertatibus, vel liberis conſuetudinibus ſuis, aut utlagetur, aut exulet, aut aliquo modo deſtruatur; nec ſuper eum ibimus, nec ſuper eum mittemus, niſi per legale judicium parium ſuorum, vel per legem terrae. Mag. Chart. c. 29. Imprimis, conceſſimus Deo, et hac praeſenti chartà noſtrà confirmavimus pro nobis et haeredibus noſtris, in perpetuum, quòd eccleſia Anglicana libera ſit, et habeat omnia jura ſua integra, et libertates ſuas illaeſas. Ibid. c. 1. Salvae ſint archiepiſcopis, epiſcopis, abbatibus, prioribus, templariis, hoſpitalariis, comitibus, baronibus, et omnibus aliis, tam eccleſiaſticis perſonis, quàm ſaecularibus, omnes libertates, et liberae conſuetudines, quas prius habuerunt. c. 37. Et alibi paſſim.

CHAP. III thoſe, are ſworn to proceed according to law, and not to regard the king's letters or commands. The doubtful caſes are reſerved, and to be referred to the parliament, as in the ſtatute of 25 Edw. III, concerning treaſons,* but never to the king. The law intending that theſe parliaments ſhould be annual, and leaving to the king a power of calling them oftener, if occaſion require, takes away all pretence of a neceſſity, that there ſhould be any other power to interpret or mitigate laws. For it is not to be imagined, that there ſhould be ſuch a peſtilent evil in any antient law, cuſtom, or later act of parliament, which, being on the ſudden diſcovered, may not without any great prejudice continue for forty days, till a parliament may be called. Whereas the force and eſſence of all laws would be ſubverted, if, under colour of mitigating and interpreting, the power of altering were allowed to kings, who often want the inclination, and for the moſt part the capacity of doing it rightly. It is not therefore upon the uncertain will or underſtanding of a prince, that the ſafety of a nation ought to depend. He is ſometimes a child, and ſometimes overburdened with years. Some are weak, negligent, ſlothful, fooliſh, or vicious. Others, who may have ſomething of rectitude in their intentions, and naturally are not incapable of doing well, are drawn out of the right way by the ſubtilty of ill men, who gain credit with them. That rule muſt always be uncertain, and ſubject to be diſtorted, which depends upon the fancy of ſuch a man. He always fluctuates, and every paſſion that ariſes in his mind, or is infuſed by others, diſorders him. The good of a people ought to be eſtabliſhed upon a more ſolid foundation. For this reaſon, the law is eſtabliſhed, which no paſſion can diſturb. It is void of deſire and fear, luſt and anger. It is "mens ſine affectu," written reaſon, retaining ſome meaſure of the divine perfection. It does not injoin that which pleaſes a weak, frail man; but, without any regard to perſons, commands that which is good, and puniſhes evil in all, whether rich or poor, high or low. It is deaf, inexorable, inflexible.

By this means, every man knows when he is ſafe, or in danger, becauſe he knows, whether he has done good or evil. But if all depended upon the will of a man, the worſt would be often the ſafeſt, and the beſt in the greateſt hazard; ſlaves would be often advanced, the good and the brave ſcorned and neglected. The moſt generous nations have above all things ſought to avoid this evil: and the virtue, wiſdom, and generoſity of each, may be diſcerned by the right fixing of the rule, which muſt be the guide of every man's life, and ſo conſtituting their magiſtracy, that it may be duly obſerved. Such as have attained to this perfection have always flouriſhed in virtue and happineſs: they are, as Ariſtotle ſays,

* "And becauſe that many other like caſes of treaſon may happen in time to come, "which a man cannot think nor declare at this preſent time, it is accorded, that if any "other caſe, ſuppoſed treaſon, which is not above ſpecified, doth happen before any juſtices, "the juſtices ſhall tarry, without any going to judgement of the treaſon, till the cauſe be "ſhewed and declared before the king and his parliament, whether it ought to be judged "treaſon or other felony." 25 Edw. III. Stat. 5

governed

governed by Gods rather than by men, while thoſe who ſubjected themſelves to the will of a man, were governed by a beaſt *. SECT. 16

This being ſo, our author's next clauſe, that " though a king do frame " all his actions to be according to law, yet he is not bound thereto, but " at his good will, and for good example, or ſo far forth as the general " law of the ſafety of the commonweal doth naturally bind him," is wholly impertinent. For if the king, who governs not according to law, degenerates into a tyrant, he is obliged to frame his actions according to law, or not to be a king; for a tyrant is none, but as contrary to him, as the worſt of men is to the beſt. But if theſe obligations were untied, we may eaſily gueſs, what ſecurity our author's word can be to us, that the king of his own good will, and for a good example, will frame his actions according to the laws; when experience inſtructs us, that notwithſtanding the ſtricteſt laws, and moſt exquiſite conſtitutions, which men of the beſt abilities in the world could ever invent to reſtrain the irregular appetites of thoſe in power, with the dreadful examples of vengeance taken againſt ſuch as would not be reſtrained, they have frequently broken out; and the moſt powerful have, for the moſt part, no otherwiſe diſtinguiſhed themſelves from the reſt of men, than by the enormity of their vices, and being the moſt forward in leading others to all manner of crimes by their example.

SECTION XVI

THE OBSERVATION OF THE LAWS OF NATURE IS ABSURDLY EXPECTED FROM TYRANTS, WHO SET THEMSELVES UP AGAINST ALL LAWS: AND HE THAT SUBJECTS KINGS TO NO OTHER LAW, THAN WHAT IS COMMON TO TYRANTS, DESTROYS THEIR BEING.

Our author's laſt clauſe, acknowledging kings to be bound by a general law to provide for the ſafety of the people, would be ſufficient for my purpoſe, if it were ſincere; for municipal laws do only ſhew how that ſhould be performed: and if the king, by departing from that rule, degenerates, as he ſays, into a tyrant, it is eaſily determined what ought then to be done by the people. But his whole book being a heap of contradictions and frauds, we can rely upon nothing that he ſays: and his following words, which under the ſame law comprehend both kings and tyrants, ſhew that he intends kings ſhould be no otherwiſe obliged than tyrants, which is, not at all. " By this means," ſays he, " are all kings, " even tyrants and conquerors, bound to preſerve the lands, goods, " liberties, and lives of all their ſubjects, not by any municipal law of

* Vide ſuprà, p. 108

CHAP. III

" the land, but by the natural law of a father, which binds them to ratify " the acts of their forefathers and predeceſſors, in things neceſſary for " the public good of their ſubjects." If he be therefore in the right, tyrants and conquerors are kings and fathers. The words that have been always thought to comprehend the moſt irreconcileable contrariety, the one expreſſing the moſt tender love and care, evidently teſtified by the greateſt obligations conferred upon thoſe who are under it, the other the utmoſt of all injuries that can be offered to men, ſignify the ſame thing: there is no difference between a magiſtrate, who is what he is by law, and a public enemy, who by force or fraud ſets himſelf up againſt all law; and what he ſaid before, that kings degenerated into tyrants, ſignifies nothing, for tyrants alſo are kings.

His next words are no leſs incomprehenſible; for neither king nor tyrant can be obliged to preſerve the lands, goods, and liberties of their ſubjects, if they have none. But as liberty conſiſts only in being ſubject to no man's will, and nothing denotes a ſlave but a dependence upon the will of another, if there be no other law in a kingdom than the will of a prince, there is no ſuch thing as liberty. Property is alſo an appendage to liberty; and it is as impoſſible for a man to have a right to lands or goods, if he has no liberty, and enjoys his life only at the pleaſure of another, as it is to enjoy either, when he is deprived of them. He therefore who ſays kings and tyrants are bound to preſerve their ſubjects lands, liberties, goods, and lives, and yet lays for a foundation, that laws are no more than the ſignifications of their pleaſure, ſeeks to delude the world with words which ſignify nothing.

The vanity of theſe whimſies will farther appear, if it be conſidered, that as kings are kings by law, and tyrants are tyrants by overthrowing the law, they are moſt abſurdly joined together; and it is not more ridiculous to ſet him above the law, who is what he is by the law, than to expect the obſervation of the laws, that injoin the preſervation of the lands, liberties, goods, and lives of the people, from one who by fraud or violence makes himſelf maſter of all, that he may be reſtrained by no law, and is what he is by ſubverting all law.

Beſides, if the ſafety of the people be the ſupreme law, and this ſafety extend to, and conſiſt in the preſervation of their liberties, goods, lands, and lives, that law muſt neceſſarily be the root and beginning, as well as the end and limit of all magiſtratical power; and all laws muſt be ſubſervient and ſubordinate to it. The queſtion will not then be what pleaſes the king, but what is good for the people; not what conduces to his profit or glory, but what beſt ſecures the liberties he is bound to preſerve. He does not therefore reign for himſelf, but for the people; he is not the maſter, but the ſervant, of the commonwealth; and the utmoſt extent of his prerogative is to be able to do more good than any private man. If this be his work and duty, it is eaſily ſeen whether he is to judge of his own performance, or they by whom, and for whom, he reigns; and whether, in order to this, he be to give laws, or to receive them. It is ordinarily

ordinarily ſaid in France, "Il faut que chacun ſoit ſervi à ſa mode," every man's buſineſs muſt be done according to his own mind: and if this be true in particular perſons, it is more plainly ſo in whole nations. Many eyes ſee more than one: the collected wiſdom of a people much ſurpaſſes that of a ſingle perſon; and though he ſhould truly ſeek that which is beſt, it is not probable he would ſo eaſily find it, as the body of a nation, or the principal men choſen to repreſent the whole. This may be ſaid with juſtice of the beſt and wiſeſt princes that ever were; but another language is to be uſed, when we ſpeak of thoſe who may ſucceed, and who very often through the defects of age, perſon, or ſex, are neither fit to judge of other mens affairs, nor of their own; and are ſo far from being capable of the higheſt concernments relating to the ſafety of whole nations, that the moſt trivial cannot reaſonably be referred to them. SECT. 16.

There are few men (except ſuch as are like Filmer, who, by bidding defiance to the laws of God and man, ſeems to declare war againſt both) whom I would not truſt to determine whether a people that can never fall into nonage or dotage, and can never fail of having men of wiſdom and virtue among them, be not more fit to judge in their own perſons, or by repreſentatives, what conduces to their own good, than one who at a venture may be born in a certain family, and who, beſides his own infirmities, paſſions, vices, or intereſts, is continually ſurrounded by ſuch as endeavour to divert him from the ways of truth and juſtice. And if no reaſonable man dare prefer the latter before the former, we muſt rely upon the laws made by our forefathers, and interpreted by the nation, and not upon the will of a man.

It is in vain to ſay, that a wiſe and good council may ſupply the defects, or correct the vices, of a young, fooliſh, or ill-diſpoſed king. For Filmer denies, that a king, whatever he be, without exception (for he attributes profound wiſdom to all) is obliged to follow the advice of his council; and even he himſelf would hardly have had the impudence to ſay, that good counſel, given to a fooliſh or wicked prince, were of any value, unleſs he were obliged to follow it. This council muſt be choſen by him, or impoſed upon him. If it be impoſed upon him, it muſt be by a power that is above him, which he ſays cannot be. If choſen by one who is weak, fooliſh, or wicked, it can never be good; becauſe ſuch virtue and wiſdom is required to diſcern and chooſe a few good and wiſe men, from a multitude of fooliſh and bad, as he has not. And it will generally fall out, that he will take for his counſellors, rather thoſe he believes to be addicted to his perſon or intereſts, than ſuch as are fitly qualified to perform the duty of their places. But if he ſhould, by chance, or contrary to his intentions, make choice of ſome good and wiſe men, the matter would not be much mended; for they will certainly differ in opinion from the worſt. And though the prince ſhould intend well, of which there is no aſſurance, nor any reaſon to put ſo great a power into his hands, if there be none, it is almoſt impoſſible for him to avoid the ſnares that will be

CHAP. III

be laid to ſeduce him. I know not how to put a better face upon this matter: for if I examine rather what is probable than poſſible, fooliſh or ill princes will never chooſe ſuch as are wiſe and good; but, favouring thoſe who are moſt like to themſelves, will prefer ſuch as ſecond their vices, humours, and perſonal intereſts; and, by ſo doing, will rather fortify and rivet the evils that are brought upon the nation through their defects, than cure them. This was evident in Rehoboam: he had good counſel, but he would not hearken to it. We know too many of the ſame ſort; and though it were not impoſſible, as Machiavel ſays it is, for a weak prince to receive any benefit from a good council *, we may certainly conclude, that a people can never expect any good from a council choſen by one who is weak or vicious.

If a council be impoſed upon him, and he be obliged to follow their advice, it muſt be impoſed by a power that is above him: his will therefore is not a law, but muſt be regulated by the law; the monarchy is not above the law; and if we will believe our author, it is no monarchy, becauſe the monarch has not his will; and perhaps he ſays true. For if that be an ariſtocracy, where thoſe that are, or are reputed to be the beſt, do govern, then that is certainly a mixed ſtate, in which the will of one man does not prevail. But if princes are not obliged by the law, all that is founded upon that ſuppoſition falls to the ground: they will always follow their own humours, or the ſuggeſtions of thoſe who ſecond them. Tiberius hearkened to none but Chaldeans, or the miniſters of his impurities and cruelties. Claudius was governed by ſlaves, and the profligate ſtrumpets his wives. There were many wiſe and good men in the ſenate during the reigns of Caligula, Nero, and Domitian; but inſtead of following their counſel, they endeavoured to deſtroy them all, leſt they ſhould head the people againſt them: and ſuch princes as reſemble them will always follow the like courſes.

If I often repeat theſe hateful names, it is not for want of freſher examples of the ſame nature; but I chooſe ſuch as mankind have univerſally condemned, againſt whom I can have no other cauſe of hatred, than what is common to all thoſe who have any love to virtue, and which can have no other relation to the controverſies of later ages, than what may flow from the ſimilitude of their cauſes, rather than ſuch as are too well known to us, and which every man, according to the meaſure of his experience, may call to mind in reading theſe. I may alſo add, that as nothing is to be received as a general maxim, which is not generally true, I need no more to overthrow ſuch as Filmer propoſes, than to prove how frequently they have been found falſe, and what deſperate miſchiefs have been brought upon the world as often as they have been practiſed, and exceſſive powers put into the hands of ſuch as had neither inclination nor ability to make a good uſe of them. And therefore,

* Queſta non falla mai, ed è regola generale, che un principe, il quale non ſia ſavio per ſe ſteſſo, non può eſſer conſigliato bene. Il Princ. c. 23

1. If

1. If the ſafety of nations be the end for which governments are SECT. 16
inſtituted, ſuch as take upon them to govern, by what title ſoever, are by the law of nature bound to procure it; and in order to this, to preſerve the lives, lands, liberties, and goods, of every one of their ſubjects: and he that, upon any title whatever, pretends, aſſumes, or exerciſes a power of diſpoſing of them according to his own will, violates the laws of nature in the higheſt degree.

2. If all princes are obliged, by the law of nature, to preſerve the lands, goods, lives, and liberties of their ſubjects, thoſe ſubjects have, by the law of nature, a right to their liberties, lands, goods, &c. and cannot depend upon the will of any man; for that dependence deſtroys liberty, &c.

3. Ill men will not, and weak men cannot provide for the ſafety of the people; nay, the work is of ſuch extreme difficulty, that the greateſt and wiſeſt men that have been in the world are not able, by themſelves, to perform it; and the aſſiſtance of council is of no uſe, unleſs princes are obliged to follow it. There muſt be therefore a power in every ſtate to reſtrain the ill, and to inſtruct weak princes, by obliging them to follow the councils given, elſe the ends of government cannot be accompliſhed, nor the rights of nations preſerved.

All this being no more than is ſaid by our author, or neceſſarily to be deduced from his propoſitions, one would think he were become as good a commonwealths-man as Cato: but the waſhed ſwine will return to the mire. He overthrows all by a prepoſterous conjunction of the rights of kings, which are juſt, and by law, with thoſe of tyrants, which are utterly againſt law; and gives the ſacred and gentle name of father to thoſe beaſts, who by their actions declare themſelves enemies not only to *all* law and juſtice, but to mankind that cannot ſubſiſt without them. This requires no other proof, than to examine, whether Attila or Tamerlane did well deſerve to be called fathers of the countries they deſtroyed. The firſt of theſe was uſually called the ſcourge of God, and he gloried in the name *. The other, being reproved for the deteſtable cruelties he exerciſed, made anſwer, "you ſpeak to me as to a man, I am not a man, "but the ſcourge of God, and the plague of mankind †." This is certainly ſweet and gentle language, ſavouring much of a fatherly tenderneſs: there is no doubt but that thoſe who uſe it will provide for the ſafety of the nations under them; and the preſervation of the laws of nature is rightly

* Tu, inquit eremita, Dei es flagellum, ad vitia Chriſtiani populi corrigenda miſſus. Nic. Olahi Atila, c. 6. — Dixiſſe fertur ſuperbum illud dictum, ſtellas prae ſe cadere, terram tremere, ſe malleum eſſe univerſi orbis. Dein in id arrogantiae proceſſit, ut juſſerit, ſicut eremita dixerat, "flagellum Dei" adjici ſuo titulo; ac eo epitheto ſe et nominari et in literas referri. Ibid. c. 9

† Apud Ligurem negotiatorem amicum, qui in communi colloquio feram ejus in victis multandis crudelitatem temerè magis ac familiariter, quàm prudenter accuſabat, obverſis in eum flammantibus turbatisque occulis, in haec verba prorupit: "Si me hominem eſſe arbi- "trare, falleris, equidem ira Dei ſum, et ruina ac pernicies hominum." Richerius de rebus Turcarum l. 3, prope finem. Vide Rerum Germ. Script. à Schardio collectos. Vol. 2, p. 397. Edit. Gieſſae, 1673. Bizari Genev. Hiſt. l. 9, prope finem.

referred

CHAP. III referred to them: and it is very probable, that they who came to burn the countries, and deſtroy the nations, that fell under their power, ſhould make it their buſineſs to preſerve them, and look upon the former governors "as their fathers, whoſe acts they were obliged to confirm," though they ſeldom attained to the dominion by any other means, than the ſlaughter of them and their families.

But if the enmity be not againſt the nation, and the cauſe of the war be only for dominion againſt the ruling perſon or family, as that of Baaſha againſt the houſe of Jeroboam, of Zimri againſt that of Baaſha, of Omri againſt Zimri, and of Jehu againſt Joram *, the proſecution of it is a ſtrange way of becoming the ſon of the perſon deſtroyed. And Filmer alone is ſubtile enough to diſcover, that Jehu, by extinguiſhing the houſe of Ahab, drew an obligation upon himſelf of looking on him as his father, and confirming his acts. If this be true, Moſes was obliged to confirm the acts of the kings of the Amalekites, Moabites, and Amorites, that he deſtroyed; the ſame duty lay upon Joſhua, in relation to the Canaanites: but it is not ſo eaſily decided, to which of them he did owe that deference; for the ſame could not be due to all, and it is hard to believe, that by killing above thirty kings, he ſhould purchaſe to himſelf ſo many fathers: and the like may be ſaid of divers others.

Moreover, there is a ſort of tyrant who has no father, as Agathocles, Dionyſius, Caeſar, and generally all thoſe, who ſubvert the liberties of their own country. And if they ſtood obliged to look upon the former magiſtrates as their predeceſſors, and to confirm their acts, the firſt ſhould have been to give impunity and reward to any that would kill them, it having been a fundamental maxim in thoſe ſtates, "that any man might kill a tyrant †."

This

* 1 Kings, ch. 15, v. 29. ch. 16, v. 9, 17. 2 Kings, ch. 9, v. 14

† Unicuique licere tyrannum occidere. * * * * Ει γαρ τις επιχειροιη τυραννειν, ὁ Σολων μεν ἀλουλι την δικην επιτιθησιν. Plut. Compar. Sol. et Poplic. p. 110. —— Ὡςε δια τας πατριδας ασφαλως ἑκαςος βιοϛευει των πολιτων· τοις δε τυραννοις και τϛτο εμπαλιν ανεϛραπϛαι. αυλι γαρ τϛ τιμωρειν αἱ πολεις αὐτοις, μεγαλως τιμωσι τον αποκτειναντα τυραννον· και αντι γε τϛ εἰργειν εκ των ἱερων, ὡσπερ τϛς των ἰδιωτων φονεας, αὐλι τϛτϛ και εικονας εν τοις ἱεροις ἱϛασιν αἱ πολεις των τϛτο ποιησαντων. Xen. de Regno, p. 909, Edit. Leunclavii, 1596. —— Εκεινοις [Λακεδαιμονιων βασιλευσι] αδικειν μεν, ἡττον εξεϛιν η τοις ἰδιωταις· τοσϛτον δε μακαριϛεροι τυγχανϛσιν οντες, των βια τας τυραννιδας καϛεχοντων, ὁσον οἱ μεν τϛς τοιϛτϛς αποκτειναντες, τας μεγιϛας δωρεας παρα των συμπολιτευομενων λαμβανϛσιν. Ifoc. Orat. de Pace, prope finem. Graeci homines deorum honores tribuunt iis viris, qui tyrannos necaverunt. Cic. Orat. pro Milone, § 80.—Armodius et Ariſtogeiton, homines plebeii, Hippian et Hipparchum Piſiſtrati filios ſaevè dominantes factâ conjuratione oppreſſerunt; ideoque, ut conſervatoribus, divini honores eis ſunt conſtituti. Ampelii Lib. Memoralis. c. 15

Such were the laws and ſentiments of the Greeks concerning the killing of tyrants. The Romans were animated by the ſame ſpirit of liberty, and abhorrence of arbitrary power.

Ὁ γαρ Ποπλικολας εγραψε νομον, ανευ κριϛεως κτειναι διδουλα τον βϛλομενον τυραννειν, Plut. in vitâ Poplic. p. 103.—Lex eſt, "Qui tyrannum occiderit Olympionicarum praemium capito, et quam volet ſibi rem à magiſtratu depoſcito, et magiſtratus ei concedito. Cic. de Invent. l. 2, § 29.—Non intelligis ſatis eſſe viris fortibus didiciſſe quàm ſit pulchrum, beneficio gratum, famâ glorioſum, tyrannum occidere? Id. Philip. 2, § 117, ibid. § 96. 114.—Quod poteſt eſſe majus ſcelus, quàm non modò hominem, ſed etiam familiarem occidere?

This being in all reſpects ridiculous and abſurd, it is evident, that our author, who, by propoſing ſuch a falſe ſecurity to nations for their liberties, endeavours to betray them, is not leſs treacherous to kings, when, under a pretence of defending their rights, he makes them to be the ſame with thoſe of tyrants, who are known to have none, and are tyrants becauſe they have none; and gives no other hopes to nations of being preſerved by the kings they ſet up for that end, than what upon the ſame account may be expected from tyrants, whom all wiſe men have ever abhorred, and affirmed to have been "produced to bring deſtruction upon the world *," and whoſe lives have verified the ſentence. SECT. 17

This is truly to depoſe and aboliſh kings, by aboliſhing that by which, and for which, they are ſo. The greatneſs of their power, riches, ſtate, and the pleaſures that accompany them, cannot but create enemies. Some will envy that which is accounted happineſs; others may diſlike the uſe they make of their power: ſome may be unjuſtly exaſperated by the beſt of their actions, when they find themſelves incommoded by them; others may be too ſevere judges of ſlight miſcarriages. Theſe things may reaſonably temper the joys of thoſe, who delight moſt in the advantages of crowns. But the worſt and moſt dangerous of all their enemies are theſe accurſed ſycophants, who, by making thoſe that ought to be the beſt of men like to the worſt, deſtroy their being; and by perſuading the world they aim at the ſame things, and are bound to no other rule than is common to all tyrants, give a fair pretence to ill men to ſay, they are all of one kind. And if this ſhould be received for truth, even they, who think the miſcarriages of their governors may be eaſily redreſſed, and deſire no more, would be the moſt fierce in procuring the deſtruction of that, which is naught in principle, and cannot be corrected.

SECTION XVII

KINGS CANNOT BE THE INTERPRETERS OF THE OATHS THEY TAKE.

Our author's book is ſo full of abſurdities and contradictions, that it would be a rope of ſand, if a continued ſeries of frauds did not, like a ſtring of poiſons running through the whole, give it ſome conſiſtence with itſelf, and ſhew it to be the work of one and the ſame hand. After having

dere? num igitur ſe adſtrinxit ſcelere, ſi quis tyrannum occîdit, quamvis familiarem? Populo quidem Romano non videtur, qui ex omnibus praeclaris factis illud pulcherrimum exiſtimat. Id. de Offic. l. 3, § 19.—Nulla nobis ſocietas cum tyrannis, ſed potiùs ſumma diſtractio; neque eſt contra naturam ſpoliare eum, ſi poſſis, quem honeſtum eſt necare: atque hoc omne genus peſtiferum, atque impium, ex hominum communitate exterminandum eſt. Ibid. § 32

* In generis humani exitium natos. * * *

CHAP. III endeavoured to ſubvert the laws of God, nature, and nations, eſpecially our own, by abuſing the Scriptures, falſly alleging the authority of many good writers, and ſeeking to obtrude upon mankind a univerſal law, that would take from every nation the right of conſtituting ſuch governments within themſelves, as ſeem moſt convenient for them, and giving rules for the adminiſtration of ſuch as they had eſtabliſhed, he gives us a full view of his religion and morals, by deſtroying the force of the oath taken by our kings at their coronation. "Others," ſays he, "affirm, that "although laws of themſelves do not bind kings, yet the oaths of kings "at their coronation tie them to keep all the laws of their kingdoms. "How far this is true, let us but examine the oath of the kings of Eng- "land at their coronation; the words whereof are theſe — Art thou "pleaſed to cauſe to be adminiſtred in all thy judgments indifferent and "upright juſtice, and to uſe diſcretion with mercy and verity? — Art "thou pleaſed, that our upright laws and cuſtoms be obſerved; and doſt "thou promiſe, that thoſe ſhall be protected and maintained by thee? &c. "— To which the king anſwers in the affirmative, being firſt demanded "by the archbiſhop of Canterbury — Pleaſeth it you, to confirm and "obſerve the laws and cuſtoms of antient times, granted from God by "juſt and devout kings unto the Engliſh nation, by oath unto the ſaid "people, eſpecially laws, cuſtoms, and liberties, granted unto the clergy "and laity by the famous king Edward *?" From this he infers, that the king is not to obſerve all laws, but ſuch as are upright, becauſe he finds evil laws mentioned in the oath of Richard the ſecond, which he ſwears to aboliſh †. "Now, ſays he, what laws are upright, and what

* Filmer has taken this oath from Milles's Catalogue of Honour, p. 53. Edit. 1610. Prynne, in his treatiſe on the Loyalty of God's true ſaints, tells us, that the following form was uſed at the coronations of Henry VII, and VIII, James I, Charles I, &c.

Juramentum domini regis in die coronationis ſuae.

Archiepiſcopus Cantuarienſis regem interrogat, ſi leges et conſuetudines ab antiquis, juſtis, et Deo devotis regibus, plebi Anglorum conceſſas, cum ſacramenti confirmatione eidem plebi concedere et ſervare voluerit, et praeſertim leges, conſuetudines, et libertates à glorioſo rege Edwardo clero et populo conceſſas. —— Dicto principe ſe promittente omnia praemiſſa conceſſurum et ſervaturum, tunc exponet ei archiepiſcopus articulos, de quibus jurabit, ſic dicens:

1. "Servabis eccleſiae Dei, cleroque et populo, pacem ex integro et concordiam in Deo, "ſecundum vires tuas?" reſpondebit, "ſervabo."

2. "Facies fieri in omnibus judiciis tuis aequam et rectam juſtitiam, et diſcretionem cum "miſericordiâ et veritate, ſecundum vires tuas?" reſpondebit, "faciam."

3. "Concedis juſtas leges et conſuetudines eſſe tenendas, et promittis eas per te eſſe pro- "tegendas, et ad honorem Dei corroborandas, quas vulgus elegerit, ſecundum vires tuas?" reſpondebit, "concedo et promitto." Prynne on Loyalty, p. 246, 270

† The oath taken by Richard the ſecond was to this purpoſe —— Quòd eccleſiam ſuis permitteret gaudere libertatibus, et eam et miniſtros ejus honoraret, et fidem rectam teneret, rapacitatem et omnes iniquitates in omnibus gradibus interdiceret. Secundò, ut leges terrae bonas ubique ſervari faceret, et praecipuè leges S. Edwardi regis et confeſſoris, qui in eâdem requieſcit eccleſiâ, et malas leges faceret abrogari. Tertiò, ut non eſſet perſonarum acceptor, ſed judicium rectum inter virum et virum faceret, et praecipuè miſericordiam obſervaret, ſicut ſibi ſuam indulgeat miſericordiam clemens, et miſericors Deus. Walſing. Hiſt. Angl. p. 195. —— Since our author's time, viz. in 1688, an act was paſt for aſcertaining and eſtabliſhing the form of the coronation oath. 1 W. & M. ſeſs. 1, c. 6

"evil,

" evil, who ſhall judge but the king? &c. So that in effect the king SECT. 17
" doth ſwear to keep no laws but ſuch as in his judgment are upright,
" &c. And if he did ſtrictly ſwear to obſerve all laws, he could not
" without perjury give his conſent to the repealing or abrogating of any
" ſtatute by act of parliament, &c." And again: " but, let it be ſup-
" poſed for truth, that kings do ſwear to obſerve all laws of their kingdoms,
" yet no man can think it reaſon, that the kings ſhould be more bound
" by their voluntary oaths than common perſons. Now if a private
" perſon make a contract, either with oath, or without oath, he is no
" farther bound than the equity and juſtice of the contract ties him: for a
" man may have relief againſt an unreaſonable and unjuſt promiſe, if
" either deceit or error, force or fear, induced him thereunto, or if it be
" hurtful or grievous in the performance. Since the laws in many caſes
" give the king a prerogative above common perſons, &c." Leſt I ſhould be thought to inſiſt upon ſmall advantages, I will not oblige any man to ſhew, where Filmer found this oath, nor obſerve the faults committed in the tranſlation: but, notwithſtanding his falſe repreſentation, I find enough for my purpoſe, and intend to take it in his own words. But firſt I ſhall take leave to remark, that thoſe, who for private intereſts addict themſelves to the perſonal ſervice of princes, though to the ruin of their country, find it impoſſible to perſuade mankind, that kings may govern as they pleaſe, when all men know there are laws to direct and reſtrain them, unleſs they can make men believe they have their power from an univerſal and ſuperior law; or that princes can attempt to diſſolve the obligations laid upon them by the laws, which they ſo ſolemnly ſwear to obſerve, without rendering themſelves deteſtable to God and man, and ſubject to the revenging hands of both, unleſs they can invalidate thoſe oaths. Mr. Hobbes, I think, was the firſt who very ingeniouſly contrived a compendious way of juſtifying the moſt abominable perjuries, and all the miſchiefs enſuing thereupon, by pretending, that as the king's oath is made to the people, the people may abſolve him from the obligation: and that the people having conferred upon him all the power they had, he can do all that they could: he can therefore abſolve himſelf, and is actually free, ſince he is ſo when he pleaſes *. This is only falſe in the minor: for the people not having conferred upon him all, but only a part of their power, that of abſolving him remains in themſelves, otherwiſe they would never have obliged him to take the oath. He cannot there-

* Societati civili adverſa opinio eorum eſt, qui cenſent, legibus civilibus ſubjectos eſſe etiam eos qui habent ſummum imperium. Quam veram non eſſe ſatis oſtenditur, ex eo quod civitas, neque ſibi ipſi, neque civi cuiquam obligari poteſt: non ſibi, quia nemo obligatur niſi alii; non civi, quia civium voluntates ſingulae in voluntate civitatis continentur, ita ut ſi civitas ſe liberam à tali obligatione eſſe velit, etiam cives velint, et proinde libera ſit. Quod autem de civitate verum eſt, id verum eſſe intelligitur de eo homine, vel coetu hominum, qui ſummam habet poteſtatem; illi enim civitas ſunt, quae niſi per ſummam eorum poteſtatem non exiſtit. Hobbes de Cive c. 12, § 4, c. 6, § 14. —In eum [monarcham] jus omne populi pluralitate ſuffragiorum transfertur; ita ut quicquid potuerat populus, antequam eligeretur, id omne poſtea jure poſſit facere electus. c. 7, § 11

CHAP. III fore abſolve himſelf. The pope indeed finds a help for this, and as Chriſt's vicar pretends the power of abſolution to be in him, and exerciſed it in abſolving king John. But our author, deſpairing to impoſe either of theſe upon our age and nation, with more impudence, and leſs wit, would enervate all coronation-oaths by ſubjecting them to the diſcretion of the taker: whereas all men have hitherto thought their force to conſiſt in the declared ſenſe of thoſe who give them *. This doctrine is ſo new, that it ſurpaſſes the ſubtilty of the ſchoolmen, who, as an ingenious perſon ſaid of them, had minced oaths ſo fine, that a million of them, as well as angels, might ſtand upon the point of a needle; and were never yet equalled but by the Jeſuits, who have overthrown them by mental reſervations: which is ſo clearly demonſtrated from their books, that it cannot be denied; but ſo horrible, that even thoſe of their own order, who have the leaſt ſpark of common honeſty, condemn the practice. And one of them, being a gentleman of a good family, told me, he would go the next day and take all the oaths that ſhould be offered, if he could ſatisfy his conſcience in uſing any manner of equivocation, or mental reſervation; or if he might put any other ſenſe upon them, than he knew to be intended by thoſe who offered them. And if our author's conſcience were not more corrupted than that of the Jeſuit, who had lived fifty years under the worſt diſcipline that I think ever was in the world, I would aſk him ſeriouſly, if he truly believe, that the nobility, clergy, and commonalty of England, who have been always ſo zealous for their antient laws, and ſo reſolute in defending them, did mean no more by the oaths they ſo ſolemnly impoſed, and upon which they laid ſo much weight, than that the king ſhould ſwear to keep them, ſo far only as he ſhould think fit. But he ſwears only "to obſerve thoſe that are upright, &c." How can that be underſtood otherwiſe, than that thoſe who give the oath do declare their laws and cuſtoms to be upright and good, and he by taking the oath affirms them to be ſo? Or, how can they be more preciſely ſpecified than by the enſuing clauſe, "granted from God by juſt and devout "kings by oath, eſpecially thoſe of the famous king Edward?" But, ſays he, by the ſame oath, "Richard the ſecond was bound to aboliſh "thoſe that were evil." If any ſuch had crept in through error, or been obtruded by malice, the evil being diſcovered and declared by the nobility and commons who were concerned, he was not to take advantage of them, or by his refuſal to evade the abolition, but to join with his people in annulling them, according to the general clauſe of aſſenting to thoſe "quas vulgus elegerit †."

Magna Charta being only an abridgment of our antient laws and cuſtoms, the king that ſwears to it, ſwears to them all; and not being admitted to be the interpreter of it, or to determine what is good or evil,

* Verba jurantis obligare in ſenſu quo ea creditur accepiſſe cui juratum eſt. . . . Dictis ipſis teſtem adhibens Deum, debet dicta facere vera quomodò putat intelligi. Grot. de Jure Belli, l. 2, c. 13, § 3. Vide ejuſd. cap. argumenta, § 3

† See the third article in the coronation oath above cited, p. 354

fit

fit to be obſerved or annulled in it, can have no more power over the reſt. This having been confirmed by more parliaments than we have had kings ſince that time, the ſame obligation muſt ſtill lie upon them all, as upon John and Henry, in whoſe time that claim of right was compiled. The act was no leſs ſolemn than important; and the moſt dreadful curſes that could be conceived in words, which were denounced againſt ſuch as ſhould any way infringe it, by the clergy in Weſtminſter-hall, in the preſence, and with the aſſent, of king Henry the third, many of the principal nobility, and all the eſtates of the kingdom, ſhew whether it was referred to the king's judgment or not; when it is evident they feared the violation from no other than himſelf, and ſuch as he ſhould employ *. I confeſs the church, as they then called the clergy, was fallen into ſuch corruption, that their arms were not much to be feared by one who had his conſcience clear; but that could not be in the caſe of perjury: and our anceſtors could do no better, than employ the ſpiritual ſword, reſerving to themſelves the uſe of the other, in caſe that ſhould be deſpiſed. Though the pope's excommunications proved ſometimes to be but "bruta fulmina," when a juſt cauſe was wanting, it may be eaſily judged what obedience a prince could expect from his ſubjects, when every man knew he had by perjury drawn the moſt heavy curſes upon himſelf. King John was certainly wicked, but he durſt not break theſe bonds till he had procured the pope's abſolution for a cover; and when he had done ſo, he found himſelf unſafe under it, and could not make good what he had promiſed to the pope to obtain it, the parliament declaring, that his grants to the pope were unjuſt, illegal, contrary to his coronation-oath, and that they would not be held by them. This went ſo far in that king's time, that writs were iſſued out to men of all conditions to oblige themſelves by oath to keep the great charter; and if other means failed, "to compel the king "to perform the conditions †." It is expreſsly ſaid in his charter, that "the barons and commonalty of the land ſhall ſtreighten and compel us "by all means poſſible, as by ſeizing our towns, lands, and poſſeſſions, "or any other way, till ſatisfaction be made according to their pleaſure ‡." And in the charter of his ſon Henry it is, upon the ſame ſuppoſition of not performing the agreement, ſaid, "It ſhall be lawful for all men in "our kingdom to riſe up againſt us, and to do all things that may be "grievous to us, as if they were abſolutely free from any engagements SECT. 17

* See the ſentence of excommunication denounced againſt all the infringers of Magna Charta in Matthew Paris, p. 866. ſub ann. 1253

† Rex Anglorum Johannes miſit literas ſuas patentes in omnes fines Angliae praecipiens firmiter vicecomitibus univerſis totius regni, ut facerent jurare de ballivis ſuis homines cujuſcunque conditionis, quòd leges et libertates praedictas obſervarent, et quòd ipſum regem poſſe ſuo per captionem caſtrorum ſuorum diſtringerent et gravarent ad praefata omnia exequenda, ſicut in chartâ continebatur. Mat. Paris. ſub ann. 1215. p. 262

‡ Et illi barones, cum communitate totius terrae, diſtringent et gravabunt nos modis omnibus quibus poterunt, ſcilicet per captionem caſtrorum, terrarum, poſſeſſionum, et aliis modis quibus potuerint, donec fuerit emendatum ſecundum arbitrium eorum. Mat. Paris. p. 261.

"to

CHAP. III

" to our perſon *." Theſe words ſeem to have been contrived to be ſo full and ſtrong " propter duplicitatem regis," which was with too much reaſon ſuſpected. And it is not, as I ſuppoſe, the language of ſlaves and villains begging ſomething from their lord, but of noble and free men, who knew their lord was no more than what they made him, and had nothing but what they gave him: nor the language of a lord treating with ſuch as enjoyed their liberties by his favour, but with thoſe whom he acknowledged to be the judges of his performing what had been ſtipulated; and equals the agreements made between the kings and people of Arragon, which I cited before from the Relations of Antonio Perez. This is as far as men can go; and the experience of all ages manifeſts, that princes, performing their office, and obſerving theſe ſtipulations, have lived glorious, happy, and beloved. And I can hardly find an example of any, who have notoriouſly broken theſe oaths, and been adjudged to have incurred the penalties, who have not lived miſerably, died ſhamefully, and left an abominable memory to poſterity.

" But," ſays our author, " kings cannot be more obliged by volun-
" tary oaths than other men, and may be relieved from unjuſt and unrea-
" ſonable promiſes, if they be induced by deceit, error, force, or fear,
" or the performance be grievous." Which is to ſay, that no oath is of any obligation; for there is none that is not voluntary, or involuntary; and there never was any, upon which ſome ſuch thing may not be pretended: which would be the ſame, if ſuch as Filmer had the direction of their conſciences who take the oaths, and of thoſe who are to exact the performance. This would ſoon deſtroy all confidence between king and people, and not only unhinge the beſt eſtabliſhed governments, but by a deteſtable practice of annihilating the force of oaths, and moſt ſolemn contracts, that can be made by men, overthrow all ſocieties that ſubſiſt by them. I leave it to all reaſonable men to judge how fit a work this would be for the ſupreme magiſtrate, who is advanced to the higheſt degree of human glory and happineſs, that he may preſerve them; and how that juſtice, for the obtaining of which governments are conſtituted, can be adminiſtred, if he, who is to exact it from others, do in his own

* Our author has taken theſe words from the following paſſage in " Charta pardonationis per regem Henricum poſt bellum de Lewes, anno regni, 49:"—— Quòd ſi nos, vel dominus Edvardus filius noſter, contra praedictam ordinationem, promiſſionem noſtram, ſeu juramentum, quod abſit, in aliquo venire, ſeu pacem et tranquillitatem regni noſtri turbare, ſeu occaſione factorum praecedentium, tempore turbationis ac guerrae praecedentis, aliquem de praedictis, aut de parte praedictorum, quos diffidavimus, occaſionare, ſeu alicui de eis damnum facere, aut fieri procurare praeſumpſerimus, liceat omnibus de regno noſtro contra nos inſurgere, et ad gravamen noſtrum opem et operam dare, juxta poſſe: ad quod ex praeſenti praecepto noſtro omnes et ſingulos volumus obligari, fidelitate, et homagio nobis facto non obſtante. Ita quòd nobis in nullo intendant, ſed omnia, quae gravamen noſtrum reſpiciunt, faciant, ac ſi in nullo nobis tenerentur, donec quod in hâc parte transgreſſum fuerit, ſeu commiſſum, cum ſatisfactione congruâ, in ſtatum debitum, ſecundum praedictorum, ordinationis et promiſſionis noſtrae, et juramenti formam, fuerit reformatum etc. Annal. Waverleienſes, ſub ann. 1264. Vide Hiſt. Anglic. Scriptores quinque, p. 217. Tyrrel's Hiſt. of England, p. 1042, and Append. p. 34

perſon

perſon utterly ſubvert it; and what they deſerve, who by ſuch baſe prevarications would teach them to pervert and aboliſh the moſt ſacred of all contracts. A worthy perſon of our age was accuſtomed to ſay, that contracts in writing were invented only to bind villains, who having no law, juſtice, or truth, within themſelves, would not keep their words, unleſs ſuch teſtimonies were given as might compel them. But if our author's doctrine were received, no contract would be of more value than a cobweb. Such as are not abſolutely of a profligate conſcience ſo far reverence the religion of an oath, as to think, that even thoſe which are moſt unjuſtly and violently impoſed ought to be obſerved *; and Julius Caeſar, who I think was not over-ſcrupulous, when he was taken by pirates, and ſet at liberty upon his word, cauſed the ranſom he had promiſed to be paid to them †. We ſee the like is practiſed every day by priſoners taken in unjuſt as well as juſt wars: and there is no honeſt man that would not abhor a perſon, who being taken by the pirates of Algiers, ſhould not pay what he had promiſed for his liberty. It were in vain to ſay they had no right of exacting, or that the performance was grievous; he muſt return to the chains, or pay. And though the people of Artois, Alſatia, or Flanders, do perhaps, with reaſon, think the king of France has no right to impoſe oaths of allegiance upon them, no man doubts, but that if they chooſe rather to take thoſe oaths, than to ſuffer what might enſue upon their refuſal, they are as much bound to be faithful to him as his antient ſubjects. SECT. 17

The like may be ſaid of promiſes extorted by fraud; and no other example is neceſſary to prove they are to be performed, than that of Joſhua made to the Gibeonites ‡. They were an accurſed nation, which he was commanded to deſtroy: they came to him with lies, and by deceit induced him to make a league with them, which he ought not to have done; but being made, it was to be performed. On that account he did not only ſpare but defend them; and the action was approved by God.

* Non perſona ſola reſpicitur cui juratur, ſed is qui juratur, Deus, qui ad obligationem pariendam ſufficit. Repudiandus ergò Cicero, cùm ait, perjurium nullum eſſe, ſi praedonibus paetum pro capite pretium non adferatur, ne ſi juratum quidem ſit. Grot. de Jure Belli. l. 2, c. 13, § 15. Cic. de Offic. l. 3, § 107. — Puffendorf ſeems to favour the opinion of Cicero. Vide Puffend. de Jure Nat. l. 4, c. 2, § 8

† Our author has miſrepreſented the tranſaction, to which he alludes in this paſſage. When Caeſar was taken by the pirates, he acted more like an artful and political warrior, than a man of honour. He was kept in cuſtody till the ranſom was paid. As ſoon as he was releaſed, he purſued the pirates, obliged them to reſtore all the money they had received, and crucified them for their illegal practices, and their inſolence in apprehending him. —— Rhodum ſecedere ſtatuit . . . Huc dum hibernis jam menſibus trajicit, circa Pharmacuſam inſulam à praedonibus captus eſt; manſitque apud eos, non ſine ſummâ indignatione, propè quadraginta dies, cum uno medico et cubiculariis duobus. Nam comites ſervoſque caeteros initio ſtatim, ad expediendas pecunias, quibus redimeretur, dimiſerat. Numeratis deinde quinquaginta talentis, expoſitus in litore, non diſtulit quin è veſtigio claſſe deductâ perſequeretur abeuntes; ac redactos in poteſtatem ſupplicio, quod illis ſaepè minatus inter jocum fuerat, afficeret. Suet. in vitâ Jul. Caeſaris, § 4, 74. Plut. in ejuſdem vitâ. Polyaeni. Strat. l. 8, c. 23. Vel. Paterc. l. 2, § 41, 42

‡ Joſh. ch. 9, v. 18. Vide Grot. de Jure Belli, l. 2, c. 13, § 4

CHAP. III When Saul by a prepoſterous zeal violated that league, the anger of God for that breach of faith could no otherwiſe be appeaſed than by the death of ſeven of his children. This caſe is ſo full, ſo preciſe, and of ſuch undoubted authority, that I ſhall not trouble myſelf with any other. But if we believe our man of good morals, voluntary oaths and promiſes are of no more value than thoſe gained by force or deceit, that is to ſay, none are of any. For voluntary ſignifying nothing but free, all human acts are either free or not free, that is, from the will of the perſon, or ſome impulſe from without. If therefore there be no force in thoſe that are free, nor in thoſe that are not free, there is none in any.

No better uſe can be made of any pretenſion of "error," or that the "performance was grievous;" for no man ought to be grieved at the performance of his contract. David aſſures us, that a good man performs his agreement, though he loſe by it*; and the lord chancellor Egerton told a gentleman who deſired relief againſt his own deed, upon an allegation that he knew not what he did when he ſigned it, that he did not ſit to relieve fools.

But though voluntary promiſes or oaths, when, to uſe the lawyers language, there is not a valuable conſideration, were of no obligation; or men brought by force, fear, or error, into ſuch contracts as are grievous in the performance, might be relieved, this would not at all reach the caſes of princes, in the contracts made between them and their ſubjects, and confirmed by their oaths, there being no colour of force or fraud, fear or error, for them to allege; nor any thing to be pretended that can be grievous to perform, otherwiſe than as it may be grievous to an ill man not to do the miſchiefs he had conceived.

Nations, according to their own will, frame the laws by which they reſolve to be governed; and if they do it not wiſely, the damage is only to themſelves: but it is hard to find an example of any people that did by force oblige a man to take upon him the government of them. Gideon was indeed much preſſed by the Iſraelites to be their king; and the army of Germanicus, in a mutiny, more fiercely urged him to be emperor: but both deſiſted when their offers were refuſed. If our kings have been more modeſt, and our anceſtors more pertinacious in compelling them to accept the crowns they offered, I ſhall, upon proof of the matter, change my opinion. But till that do appear, I may be pardoned if I think there was no ſuch thing. William the Norman was not by force brought into England, but came voluntarily, and deſired to be king: the nobility, clergy, and commons, propoſed the conditions upon which they would receive him. Theſe conditions were to govern according to their antient laws, eſpecially thoſe that had been granted, or rather collected in the time of the famous king Edward. Here was neither force nor fraud; if he had diſliked the terms, he might have retired as freely as he came. But he did like them; and though he was not perhaps ſo modeſt, as to

* Pſalm. 15, v. 5

ſay

ſay with the brave Saxon king Offa, "ad libertatis veſtrae tuitionem, SECT. 17
"non meis meritis, ſed ſolâ liberalitate veſtrâ, unanimiter me convo-
"câſtis *," he accepted the crown upon the conditions offered and ſwore upon the evangeliſts to obſerve them. Not much valuing this, he pretended to govern according to his own will; but finding the people would not endure it, he renewed his oath upon the ſame evangeliſts, and the reliques of St. Alban †, which he needed not to have done, but might have departed to his dutchy of Normandy, if he had not liked the conditions, or thought not fit to obſerve them. It is probable he examined the contents of Edward's laws before he ſwore to them, and could not imagine, that a free nation, which never had any other kings, than ſuch as had been choſen by themſelves for the preſervation of their liberty, and from whoſe liberality the beſt of their kings acknowledged the crowns they wore, did intend to give up their perſons, liberties, and eſtates, to him, who was a ſtranger, eſpecially when they would not receive him till he had ſworn to the ſame laws, by which the others had reigned, of which one was, as appears by the act of the Conventus Pananglicus, that "reges à ſacerdotibus et ſenioribus populi eligerentur, "the kings ſhould be elected by the clergy and elders of the people ‡." By theſe means he was advanced to the crown, to which he could have no title, unleſs they had the right of conferring it upon him. Here was therefore no force, deceit, or error; and whatever equity there might be to relieve one that had been forced, frighted, or circumvented, it was nothing to this caſe. We do not find, that William the ſecond, or Henry, were forced to be kings; no ſword was put to their throats; and for any thing we know, the Engliſh nation was not then ſo contemptible, but men might have been found in the world, who would willingly have accepted the crown, and even their elder brother Robert would not have refuſed. But the nobility and commons, truſting to their oaths and promiſes, thought fit to prefer them before him; and when he endeavoured to impoſe himſelf upon the nation by force, they ſo ſeverely puniſhed him, that no better proof can be required to ſhew, that they were accuſtomed to have no other kings than ſuch as they approved. And this was one of the cuſtoms that all their kings ſwore to maintain, it being as antient, juſt, and well-approved, as any other.

Having already proved, that all the kings we have had ſince that time, have come in upon the ſame title; that the Saxon laws, to which all have ſworn, continue to be of force among us, and that the words pronounced four times, on the four ſides of the ſcaffold, by the archbiſhop, "will ye "have this man to reign?" do teſtify it; I may ſpare the pains of a

* Mat. Paris. in vitâ Offae ſecundi, p. 13

† Rex, pro bono pacis, juravit ſuper omnes reliquias eccleſiae ſancti Albani, tactisque ſacroſanctis evangeliis, miniſtrante juramentum abbate Fretherico, bonas et approbatas antiquas regni leges, quas ſancti et pii Angliae reges, ejus anteceſſores, et maximè Edwardus ſtatuit, inviolabiliter obſervare. Mat. Paris. in vitâ Fretherici S. Albani abbatis xiii. p. 48

‡ Vide ſuprà, p. 321

CHAP. III. repetition, and juſtly conclude, that if there was neither force nor fraud, fear nor error, to be pretended by the firſt, there could be none in thoſe that followed.

But the "obſervation of this oath may be grievous." If I received money the laſt year upon bond, promiſe, or ſale of a manor or farm, can it be thought grievous to me to be compelled to repay, or to make over the land according to my agreement? Or if I did not ſeal the bond till I had the money, muſt not I perform the condition, or at the leaſt reſtore what I had received? If it be grievous to any king to preſerve the liberties, lives, and eſtates of his ſubjects, and to govern according to their laws, let him reſign the crown, and the people to whom the oath was made will probably releaſe him. Others may poſſibly be found who will not think it grievous: or if none will accept a crown unleſs they may do what they pleaſe, the people muſt bear the misfortune of being obliged to govern themſelves, or to inſtitute ſome other ſort of magiſtracy, that will be ſatisfied with a leſs exorbitant power. Perhaps they may ſucceed as well as ſome others have done, who, without being brought to that neceſſity, have voluntarily caſt themſelves into the miſery of living without the majeſtic ſplendor of a monarch: or, if that fail, they may, as their laſt refuge, ſurrender up themſelves to ſlavery. When that is done, we will acknowledge, that whatever we have is derived from the favour of our maſter. But no ſuch thing yet appearing among us, we may be pardoned, if we think we are free-men governed by our own laws, and that no man has a power over us, which is not given and regulated by them; nor that any thing, but a new law made by ourſelves, can exempt our kings from the obligation of performing their oaths taken, to govern according to the old, in the true ſenſe of the words, as they are underſtood in our language by thoſe who give them, and conducing to the ends for which they are given; which can be no other, than to defend us from all manner of arbitrary power, and to fix a rule to which we are to conform our actions, and from which, according to our deſerts, we may expect reward or puniſhment. And thoſe who by prevarications, cavils, or equivocations, endeavour to diſſolve theſe obligations, do either maliciouſly betray the cauſe of kings, by repreſenting them to the world as men, who prefer the ſatisfaction of their irregular appetites before the performance of their duty, and trample under foot the moſt ſacred bonds of human ſociety; or from the groſſeſt ignorance do not ſee, that by teaching nations how little they can rely upon the oaths of their princes, they inſtruct them as little to obſerve their own; and that not only, becauſe men are generally inclined to follow the examples of thoſe in power, but from a moſt certain concluſion, that he, who breaks his part of a contract, cannot without the utmoſt impudence and folly expect the performance of the other; nothing being more known among men, than, that all contracts are of ſuch mutual obligation, that he who fails of his part diſcharges the other. If this be ſo between man and man, it muſt needs be ſo between one and many millions of men: if he were free,

becauſe

becauſe he ſays he is, every man muſt be free alſo when he pleaſes. If SECT. 18
a private man, who receives no benefit, or perhaps prejudice, from a contract, be obliged to perform the conditions, much more are kings, who receive the greateſt advantages the world can give. As they are not by themſelves, nor for themſelves, ſo they are not different "in ſpecie" from other men: they are born, live, and die, as we all do. The ſame law of truth and juſtice is given to all by God and nature; and perhaps I may ſay, the performance of it is moſt rigorouſly exacted from the greateſt of men. The liberty of perjury cannot be a privilege annexed to crowns; and it is abſurd to think, that the moſt venerable authority, that can be conferred upon a man, is increaſed by a liberty to commit, or impunity in committing ſuch crimes, as are the greateſt aggravations of infamy to the baſeſt villains in the world.

SECTION XVIII

THE NEXT IN BLOOD TO DECEASED KINGS CANNOT GENERALLY BE SAID TO BE KINGS, TILL THEY ARE CROWNED.

It is hereupon uſually objected, that kings do not come in by contract nor by oath; but are kings by, or according to proximity of blood, before they are crowned. Though this be a bold propoſition, I will not ſay, it is univerſally falſe. It is poſſible, that in ſome places the rule of ſucceſſion may be ſet down ſo preciſely, that, in ſome caſes, every man may be able to ſee and know the ſenſe, as well as the perſon deſigned to be the ſucceſſor: but before I acknowledge it to be univerſally true, I muſt deſire to know what this rule of ſucceſſion is, and from whence it draws its original.

I think I may be excuſed, if I make theſe ſcruples, becauſe I find the thing in diſpute to be variouſly adjudged in ſeveral places; and have obſerved five different manners of diſpoſing crowns eſteemed hereditary, beſides an infinite number of collateral controverſies ariſing from them, of which we have divers examples; and if there be one univerſal rule appointed, one of theſe only can be right, and all the others muſt be vicious. The firſt gives the inheritance to the eldeſt male of the eldeſt legitimate line, as in France, according to that which they call the ſalic law. The ſecond, to the eldeſt legitimate male of the reigning family, as antiently in Spain: according to which the brother of the deceaſed king has been often, if not always, preferred before the ſon, if he were elder, as may appear by the diſpute between Corbis and Orſua, cited before from Titus Livius *. And in the ſame country, during the reign of the Goths, the eldeſt male ſucceeded, whether legitimate or illegitimate. The

* Vide ſuprà, p. 46

CHAP. III fourth receives females, or their deſcendents, without any other condition diſtinguiſhing them from males, except that the younger brother is preferred before the elder ſiſter, but the daughter of the elder brother is preferred before the ſon of the younger. The fifth gives the inheritance to females under a condition, as in Sweden, where they inherit, unleſs they marry out of the country without the conſent of the eſtates: according to which rule, Charles Guſtavus was choſen, as any ſtranger might have been, though ſon to a ſiſter of Guſtavus Adolphus, who by marrying a German prince had forfeited her right. And by the ſame act of eſtates, by which her eldeſt ſon was choſen, and the crown entailed upon the heirs of his body, her ſecond ſon, the prince Adolphus, was wholly excluded.

Till theſe queſtions are decided by a judge of ſuch an undoubted authority, that all men may ſafely ſubmit, it is hard for any man, who really ſeeks the ſatisfaction of his conſcience, to know whether the law of God and nature (though he ſhould believe there is one general law) do juſtify the cuſtoms of the antient Medes and Sabeans, mentioned by the poet, who admitted females *, or thoſe of France, which totally exclude them as unfit to reign over men, and utterly unable to perform the duty of a ſupreme magiſtrate, as we ſee they are every where excluded from the exerciſe of all other offices in the commonwealth. If it be ſaid, that we ought to follow the cuſtoms of our own country, I anſwer, that thoſe of our own country deſerve to be obſerved, becauſe they are of our own country: but they are no more to be called the laws of God and nature than thoſe of France or Germany; and though I do not believe, that any general law is appointed, I wiſh I were ſure, that our cuſtoms in this point were not more repugnant to the light of nature, and prejudicial to ourſelves, than thoſe of ſome other nations. But if I ſhould be ſo much an Engliſhman, as to think the will of God to have been more particularly revealed to our anceſtors, than to any other nation, and that all of them ought to learn from us, yet it would be difficult to decide many queſtions that may ariſe. For though the parliament, in the 39 of Henry the ſixth, made an act in favour of Richard duke of York, deſcended from a daughter of Mortimer, who married the daughter of the duke of Clarence, elder brother to John of Gaunt †, they rather aſſerted their own power of giving the crown to whom they pleaſed, than determined the queſtion.

* ——Medis levibuſque Sabaeis
Imperat hic ſexus, reginarumque ſub armis
Barbariae pars magna jacet.——Claud. in Eutrop. l. 1, v. 321.

† The duke of York's claim to the crown of England was as follows: king Edward the third had ſeven ſons, Edward prince of Wales, William of Hatfield, Lionel duke of Clarence, John of Gaunt duke of Lancaſter, Edmund duke of York, Thomas duke of Glouceſter, and William of Windſor. Edward the eldeſt died during his father's life, and left one ſon, king Richard the ſecond, who died without iſſue, as did alſo king Edward's ſecond ſon William. Lionel the third ſon had only one daughter, named Philippa, who being married to Edmund Mortimer earl of March, ſhe had by him Roger earl of March, who afterwards had two ſons and two daughters, of whom three died without iſſue; only

queſtion. For if they had believed, that the crown had belonged to him SECT. 18
by a general and eternal law, they muſt immediately have rejected Henry as a uſurper, and put Richard into the poſſeſſion of his right, which they did not. And though they did ſomething like to this in the caſes of Maud the empreſs, in relation to king Stephen, and her ſon Henry the ſecond; and of Henry the ſeventh, in relation to the houſe of York, both before he had married a daughter of it, and after her death; they did the contrary in the caſes of William the firſt and ſecond, Henry the firſt, Stephen, John, Richard the third, Henry the ſeventh, Mary, Elizabeth, and others. So that, for any thing I can yet find, it is equally difficult to diſcover the true ſenſe of the law of nature, that ſhould be a guide to my conſcience, whether I ſo far ſubmit to the laws of my country, as to think, that England alone has produced men that rightly underſtand it, or examine the laws and practices of other nations.

While this remains undecided, it is impoſſible for me to know, to whom I owe the obedience that is exacted from me. If I were a Frenchman, I could not tell whether I owed allegiance to the king of Spain, duke of Lorrain, duke of Savoy, or many others deſcended from daughters of the houſe of Valois, one of whom ought to inherit, if the inheritance belongs to females; or to the houſe of Bourbon, whoſe only title is founded upon the excluſion of them. The like controverſies will be in all places; and he that would put mankind upon ſuch enquiries, goes about to ſubvert all the governments of the world, and arms every man to the deſtruction of his neighbour.

We ought to be informed when this right began. If we had the genealogy of every man from Noah, and the crowns of every nation had ſince his time continued in one line, we were only to inquire, into how many kingdoms he appointed the world to be divided, and how well the diviſion we ſee at this day agrees with the allotment made by him. But mankind having for many ages lain under ſuch a vaſt confuſion, that no man pretends to know his own original, except ſome Jews, and the princes of the houſe of Auſtria, we cannot ſo eaſily arrive at the end of our work; and the Scriptures making no other mention of this part of the world, than what may induce us to think it was given to the ſons of Japhet, we have nothing that can lead us to gueſs how it was to be ſubdivided, nor to whom the ſeveral parcels were given: ſo that the difficulties are abſolutely inextricable;

only Anne the ſole heireſs of the houſe married to Richard earl of Cambridge, the ſon of Edmund duke of York, the fifth ſon of king Edward the third, which earl of Cambridge begot Richard duke of York the claimant.

On the other ſide John of Gaunt, the fourth ſon of king Edward the third, and younger brother to Lionel, had a ſon named Henry, who immediately after king Richard's reſignation, entered upon the throne unrighteouſly, becauſe Edmund earl of March, ſon to Philippa the daughter and heireſs of the aforeſaid Lionel elder brother to John of Gaunt, was then alive; and the ſaid Henry ſon to John of Gaunt, and his ſucceſſors, had hitherto held the crown of England unjuſtly, becauſe the ſaid Richard Plantagenet duke of York was the lawful heir, as being the ſon of Richard earl of Cambridge, and Anne before mentioned. Echard's Hiſt. of England, anno 1460

CHAP. III inextricable; and though it were true, that ſome one man had a right to every parcel that is known to us, it could be of no uſe; for that right muſt neceſſarily periſh, which no man can prove, nor indeed claim. But as all natural rights by inheritance muſt be by deſcent, this deſcent not being proved, there can be no natural right; and all rights being either natural, created, or acquired, this right to crowns not being natural muſt be created or acquired, or none at all.

There being no general law common to all nations, creating a right to crowns (as has been proved by the ſeveral methods uſed by ſeveral nations in the diſpoſal of them, according to which all thoſe that we know are enjoyed) we muſt ſeek the right, concerning which we diſpute, from the particular conſtitutions of every nation, or we ſhall be able to find none.

Acquired rights are obtained, as men ſay, either by fair means or by foul, that is, by force or by conſent. Such as are gained by force, may be recovered by force; and the extent of thoſe, that are enjoyed by conſent, can only be known by the reaſons for which, or the conditions upon which that conſent was obtained, that is to ſay, by the laws of every people. According to theſe laws it cannot be ſaid, that there is a king in every nation before he is crowned. John Sobieſki, now reigning in Poland, had no relation in blood to the former kings, nor any title till he was choſen *. The laſt king of Sweden acknowledged he had none, but was freely elected; and the crown being conferred upon him, and the heirs of his body, if the preſent king dies without iſſue, the right of electing a ſucceſſor returns undoubtedly to the eſtates of the country. The crown of Denmark was elective till it was made hereditary by an act of the general diet, held at Copenhagen in the year 1660; and it is impoſſible, that a right ſhould otherwiſe accrue to a younger brother of the houſe of Holſtein, which is derived from a younger brother of the counts of Oldenburgh. The Roman empire having paſſed through the hands of many perſons of different nations, no way relating to each other in blood, was by Conſtantine transferred to Conſtantinople; and after many revolutions coming to Theodoſius, by birth a Spaniard, was divided between his two ſons Arcadius and Honorius. From thence paſſing to ſuch as could gain moſt credit with the ſoldiers, the weſtern empire being brought almoſt to nothing, was reſtored by Charles the Great of France; and, continuing for ſome time in his deſcendants, came to the Germans; who, having created ſeveral emperors of the houſes of Suevia, Saxony, Bavaria, and others, as they pleaſed, about three hundred years paſt choſe Rodolphus of Auſtria. And though, ſince that time, they have not had any emperor who was not of that family, yet ſuch as were choſen had nothing to recommend them, but the merits of their anceſtors, their own perſonal virtues, or ſuch political conſiderations as might ariſe from the power of their hereditary countries, which, being joined with thoſe of the empire,

* John Sobieſki commanded the Poliſh army, and obtained a memorable victory over the Turks at Choczim in 1673. For this, and other important ſervices to his country, he was ſoon afterwards, upon the death of Michael Wieſnowiſki, elected king of Poland.

might enable them to make the better defence againſt the Turks. But, in this line alſo, they have had little regard to inheritance according to blood; for the elder branch of the family is that which reigns in Spain; and the empire continues in the deſcendants of Ferdinand younger brother to Charles the fifth, though ſo unfixed even to this time, that the preſent emperor Leopold was in great danger of being rejected. SECT. 18

If it be ſaid, that theſe are elective kingdoms, and our author ſpeaks of ſuch as are hereditary, I anſwer, that if what he ſays be true, there can be no elective kingdom, and every nation has a natural lord, to whom obedience is due. But if ſome are elective, all might have been ſo, if they had pleaſed, unleſs it can be proved, that God created ſome under a neceſſity of ſubjection, and left to others the enjoyment of their liberty. If this be ſo, the nations that are born under that neceſſity may be ſaid to have a natural lord, who has all the power in himſelf, before he is crowned, or any part conferred on him by the conſent of the people; but it cannot extend to others. And he who pretends a right over any nation upon that account, ſtands obliged to ſhew, when and how that nation came to be diſcriminated by God from others, and deprived of that liberty, which he in goodneſs had granted to the reſt of mankind. I confeſs, I think there is no ſuch right, and need no better proof, than the various ways of diſpoſing inheritances in ſeveral countries, which, not being naturally or univerſally better or worſe one than another, cannot ſpring from any other root, than the conſent of the ſeveral nations where they are in force, and their opinions, that ſuch methods were beſt for them. But if God have made a diſcrimination of people, he, that would thereupon ground a title to the dominion of any one, muſt prove that nation to be under the curſe of ſlavery; which, for any thing I know, was only denounced againſt Ham: and it is as hard to determine whether the ſenſe of it be temporal, ſpiritual, or both, as to tell preciſely what nations, by being deſcended from him, fall under the penalties threatened.

If theſe therefore be either entirely falſe, or impoſſible to be proved true, there is no diſcrimination, or not known to us; and every people has a right of diſpoſing of their government, as well as the Polanders, Danes, Swedes, Germans, and ſuch as are or were under the Roman empire. And if any nation has a natural lord before he be admitted by their conſent, it muſt be by a peculiar act of their own; as the crown of France by an act of that nation, which they call the ſalic law, is made hereditary to males in a direct line, or the neareſt to the direct; and others in other places are otherwiſe diſpoſed.

I might reſt here with full aſſurance, that no diſciple of Filmer can prove this of any people in the world, nor give ſo much as the ſhadow of a reaſon to perſuade us there is any ſuch thing in any nation, or at leaſt in thoſe where we are concerned; and preſume little regard will be had to what he has ſaid, ſince he cannot prove of any that which he ſo boldly affirms of all. But becauſe good men ought to have no other object than truth, which in matters of this importance can never be made too evident,

I will

CHAP. III I will venture to go farther, and aſſert, that as the various ways, by which ſeveral nations diſpoſe of the ſucceſſion to their reſpective crowns, ſhew they were ſubject to no other law than their own, which they might have made different, by the ſame right they made it to be what it is, even thoſe who have the greateſt veneration for the reigning families, and the higheſt regard for proximity of blood, have always preferred the ſafety of the commonwealth before the concernments of any perſon or family; and have laid aſide the neareſt in blood, not only when they were found to be notoriouſly vicious and wicked, but when they have thought it more convenient to take others: and to prove this I intend to make uſe of no other examples, than thoſe I find in the hiſtories of Spain, France, and England.

Whilſt the Goths governed Spain, not above four perſons in the ſpace of three hundred years were the immediate ſucceſſors of their fathers; but the brother, couſin-german, or ſome other man of the families of the Balthi or Amali was preferred before the children of the deceaſed king: and if it be ſaid, this was according to the law of that kingdom, I anſwer, that it was therefore in the power of that nation to make laws for themſelves, and conſequently others have the ſame right. One of their kings called Wamba was depoſed, and made a monk, after he had reigned well many years; but falling into a ſwoon, and his friends thinking him paſt recovery, cut off his hair, and put a monk's frock upon him, that, according to the ſuperſtition of thoſe times, he might die in it; and the cutting off the hair being a moſt diſgraceful thing among the Goths, they would not reſtore him to his authority *. Suintila, another of their kings, being deprived of the crown for his ill government, his children and brothers were excluded, and Siſinandus crowned in his room †.

* Wamba was not depoſed by his ſubjects for miſconduct in his government, but was deprived of his crown by the following ingenious though cruel artifice of his ſucceſſor Ervigius.——Regi clam aquam, ubi ſpartum erat maceratum, praebendam curavit. Eo veneni genere, cùm venis conceptum eſſet, repentè rex morbo graviſſimo implicatus, ſacris Chriſtianis atque poenitentiâ Quirici Toletani praeſulis curâ expiatus, ſub primam noctis horam, cùm jam videretur animam agêre, poſitâ comâ, atque in ſacerdotis morem detonſus, monachi ritu cucullum induit. Eo videlicet ritu divinum numen amplius propitiari credebatur; utrumque Ervigii ſuaſu, (ſic creditum eſt) quo nimirum regnandi ſpe, ſi maximè ſuperviveret penitus caderet, ut in concilio Toletano ſexto cautum erat. Additum praeterea ut intermorientibus vocibus, menteque vi veneni alienatâ, Ervigium ipſum ſucceſſorem diceret; idque extemporariâ ſyngraphâ atque diplomate regio confirmatum. Cùm ſequenti luce, morbo tantiſper remittente, ad ſe rediens conſideraret, ex potenti paulo ante rege monachum repentè factum, mutare noluit: ſive animi magnitudine rurſus ſpernentis, quae alii per ignes ferrumque petunt; ſive deſperatione regnum recuperandi, cùm Ervigius rerum potiretur, intra eundem diem coronâ ſuſceptâ. Itaque Wamba in Pampligae monaſterium ſe contulit: ubi ſeptem annos et menſes tres (alii diutiùs tradunt) puriſſimo religionis ſtudio vitae reliquum propagavit. Mariana de Reb. Hiſpan. l. 6, anno 680. Baronii Annal. ſub eodem anno, § 56

† De Suintillane verò, qui, ſcelera propria metuens, ſeipſum regno privavit, et poteſtatis faſcibus exuit, id cum gentis conſultu decrevimus, ut neque eundem, vel uxorem ejus, propter mala quae commiſerunt, neque filios eorum, unitati noſtrae unquam conſociemus; nec eos ad honores, à quibus ob iniquitatem dejecti ſunt, aliquandò promoveamus, etc. Concil. Toletan. iv. anno 633. Vide Concil. edit. per P. Labb. tom. 5, col. 1726, § 75. Saaved. Corona Gothica.

This

This kingdom being not long after overthrown by the Moors, a new one aroſe from its aſhes, in the perſon of Don Pelayo firſt king of the Aſturias, which, increaſing by degrees, at laſt came to comprehend all Spain, and ſo continues to this day. But, not troubling myſelf with all the deviations from the common rule in the collateral lines of Navarre, Arragon, and Portugal, I find that by fifteen ſeveral inſtances in that one ſeries of kings in the Aſturias and Leon (who afterwards came to be kings of Caſtile) it is fully proved, that what reſpect ſoever they ſhewed to the next in blood, who by the law were to ſucceed, they preferred ſome other perſon, as often as the ſupreme law of "taking care, that the nation "might receive no detriment," perſuaded them to it. SECT. 18

Don Pelayo enjoyed for his life the kingdom conferred upon him by the Spaniards, who with him retired into the mountains to defend themſelves againſt the Moors, and was ſucceeded by his ſon Favila. But though Favila left many ſons when he died, Alphonſo ſurnamed the Catholic was advanced to the crown, and they all laid aſide *. Froila, ſon to Alphonſo, was for his cruelty depoſed, put to death, and his ſons excluded †. Aurelio his brother, or, as ſome ſay, his couſin-german ſucceeded him; and at his death Silo, who married his wife's ſiſter ‡, was preferred before the males of the blood royal. Alphonſo, ſurnamed el Caſto, was firſt violently diſpoſſeſſed of the crown by a baſtard of the royal family; but he being dead, the nobility and people, thinking Alphonſo more fit to be a monk than a king §, gave the crown to Bermudo called el Diacono; but Bermudo after ſeveral years reſigning the kingdom, they conceived a better opinion of Alphonſo, and made him king. Alphonſo dying without iſſue, Don Ramiro ſon to Bermudo was preferred before the nephews of Alphonſo. Don Ordogno, fourth from Ramiro, left four legitimate ſons; but they being young, the eſtates laid them aſide, and made his brother Froila king ¶. Froila had ſeveral chil-

* Mariana affirms, that Favila died without iſſue. Favila ſine prole defuncto, Alfonſus, et Ormiſinda [Pelagii filia] reges renunciati ſunt, magnâ gentis laetitiâ. Mariana de Reb. Hiſp. l. 7, c. 4. Edit. Hagae, 1733

† We do not find that Froila, or Fruela, had any ſon beſides Alphonſo el Caſto, who was ſuperceded, when his father died, ob aetatis imbecillitatem, et paternae memoriae invidiam; but afterwards accepted without oppoſition. Ibid. c. 6, 9

‡ This lady was probably the ſiſter of Aurelio. In Aurelii locum Silo, ſororis vir, cum Adoſindâ uxore, regno eſt inauguratus. Ibid. c. 6

§ Mariana gives us a different idea of this prince. Silonis funere procurato, regnum ei, penes quem reipublicae procuratio erat, Alfonſo procerum voluntate confirmatum eſt. Paterni odii memoria recederat, et virtutis ſpecimen quod interea dederat ſingulare cunctorum ordinum voluntates conciliârat. Ibid. c. 7.—He adds, that Mauregato obtained the crown by force, and an infamous aſſociation with the Moors. Bermudo, or Veremundo, is ſuppoſed by ſome writers to have accepted of the ſovereignty with the approbation of Alphonſo. For as ſoon as he was ſeated on the throne, he ſent for that prince and gave him a ſhare in the adminiſtration: ad regni conſortium revocavit. Ibid. c. 7.—Our author ſpeaks of the nephews of Alphonſo, but it does not appear, that he had any, except Bernardo del Carpio, the ſon of his ſiſter Ximena; and he is generally ſuppoſed to have been illegitimate.

¶ Froila, according to Mariana, got poſſeſſion of the crown by force of arms without the concurrence of the eſtates. Extincto Ordonio, Froila eo nomine ſecundus, defuncti frater, nullo procerum ſuffragio, neque legibus, neque auſpicatò, regnum invaſit armis. Ibid. l. 8, c. 3

CHAP. III dren; but the ſame eſtates gave the crown to Alphonſo the fourth, who was his nephew. Alphonſo turning monk recommended his ſon Ordogno to the eſtates of the kingdom; but they refuſed him, and made his brother Ramiro king *. Ordogno the third, ſon to Ramiro, dying, left a ſon called Bermudo; but the eſtates took his brother Sancho, and advanced him to the throne. Henry the firſt of Caſtile, being accidentally killed in his youth, left only two ſiſters, Blanche married to Lewis, ſon to Philip Auguſtus king of France, and Berengaria married to Alphonſo king of Leon. The eſtates made Ferdinand, ſon of Berengaria the youngeſt ſiſter, king, excluding Blanche, with her huſband and children, for being ſtrangers, and Berengaria herſelf, becauſe they thought not fit that her huſband ſhould have any part in the government †. Alphonſo el Sabio ſeems to have been a very good prince; but, applying himſelf more to the ſtudy of aſtrology than to affairs of government, his eldeſt ſon Ferdinand de la Cerda dying, and leaving his ſons Alphonſo and Ferdinand very young, the nobility, clergy, and people depoſed him, excluded his grand-children, and gave the crown to Don Sancho his younger ſon ſurnamed el Bravo ‡, thinking him more fit to command them againſt the Moors, than an old aſtrologer, or a child. Alphonſo and Sancho being dead, Alphonſo el Deſheredado laid claim to the crown: but it was given to Ferdinand the fourth, and Alphonſo, with his deſcendents the dukes de Medina Celi, remain excluded to this day. Peter ſurnamed the Cruel was twice driven out of the kingdom, and at laſt killed by Bertrand du Gueſclin conſtable of France, or Henry count of Tranſtamara his baſtard-brother, who was made king without any regard to the daughters of Peter, or to the houſe of la Cerda. Henry the fourth left a daughter called Joanna, whom he declared his heir; but the eſtates gave the kingdom to Iſabella his ſiſter, and crowned her with Ferdinand of Arragon her huſband. Joanna daughter to this Ferdinand and Iſabella falling mad, the eſtates committed the care of the government to her father Ferdinand, and after his death to Charles her ſon.

But the French have taught us, that when a king dies, his next heir is really king before he take his oath, or be crowned §. From them we learn, that "le mort ſaiſit le vif." And yet I know no hiſtory that proves more

* Mariana ſays, that Alphonſo voluntarily reſigned the crown to his brother, without any recommendation of his ſon Ordogno. Rerum gerendarum mole oppreſſus fratri Ramiro, cùm Zomoram evocatus eſſet, regnum de manu tradidit, otii cupidior, quàm pietatis: nullâ neque decoris curâ, neque Ordonii filii, quem in tenerâ aetate praeſidio deſtitutum, relinquebat. Ibid. l. 8, c. 5

† Mariana, l. 12, c. 7

‡ Sancho did not obtain the poſſeſſion of the throne till the death of his father: Alfonſi defuncti regnum ad Sanctium pervenit, nullo prohibente, jure controverſo. Mariana, though he acknowledges his bravery, ſpeaks of him as an uſurper: imperio FLAGITIO partum bonis artibus exercuit. Ibid. l. 14, c. 8.—— The remark which this writer makes on Froila the ſecond is applicable to many of thoſe kings, which our author has mentioned in this ſection: in armis jura regnandi fuere.

§ Regem nunquam in Franco-Gallorum imperio mori; ſed mortuum vivo regnum tradere. Thuan. tom. 5, l. 97, p. 8

plainly than theirs, that there neither is, nor can be in any man, a right to the government of a people, which does not receive its being, manner, and meaſure, from the law of that country; which I hope to juſtify by four reaſons. SECT. 18

1. When a king of Pharamond's race died, the kingdom was divided into as many parcels as he had ſons; which could not have been, if one certain heir had been aſſigned by nature, for he ought to have had the whole. And if the kingdom might be divided, they who inhabited the ſeveral parcels could not know to whom they owed obedience, till the diviſion was made, unleſs he who was to be king of Paris, Metz, Soiſſons, or Orleans, had worn the name of his kingdom upon his forehead. But, in truth, if there might be a diviſion, the doctrine is falſe, and there was no lord of the whole. This wound will not be healed by ſaying, the father appointed the diviſion, and that by the law of nature every man may diſpoſe of his own as he thinks fit; for we ſhall ſoon prove, that the kingdom of France neither was, nor is, diſpoſeable as a patrimony or chattel. Beſides, if that act of kings had been then grounded upon the law of nature, they might do the like at this day. But the law, by which ſuch diviſions were made, having been abrogated by the aſſembly of eſtates in the time of Hugh Capet *, and never practiſed ſince, it follows that they were grounded upon a temporary law, and not upon the law of nature, which is eternal. If this were not ſo, the pretended certainty could not be; for no man could know to whom the laſt king had bequeathed the whole kingdom, or parcels of it, till the will were opened; and that muſt be done before ſuch witneſſes as may deſerve credit in a matter of this importance, and are able to judge whether the bequeſt be rightly made; for otherwiſe no man could know, whether the kingdom was to have one lord or many, nor who he or they were to be; which intermiſſion muſt neceſſarily ſubvert their polity, and this doctrine. But the truth is, the moſt monarchical men among them are ſo far from acknowledging any ſuch right to be in the king, of alienating, bequeathing, or dividing the kingdom, that they do not allow him the right of making a will; and that of the laſt king Lewis the thirteenth, touching the regency during the minority of his ſon, was of no effect †.

2. This matter was made more clear under the ſecond race. If a lord had been aſſigned to them by nature, he muſt have been of the royal family: but Pepin had no other title to the crown except the merits of his father, and his own, approved by the nobility and people who made

* De Serres en la vie de Hugues Capet.

† Lewis the thirteenth, by his will, appointed a regency; and the monarch, who was but ill obeyed in his life-time, flattered himſelf with having more reſpect paid to him after his death: but the firſt ſtep taken by his widow, Anne of Auſtria, was, to cauſe the will of her deceaſed huſband to be annulled, by a decree of the parliament of Paris, dated Auguſt 18, 1643. This body, which had long oppoſed the court, and which, under Lewis, had ſcarce preſerved the liberty of making remonſtrances, annulled the will of its king with the ſame facility it would have determined the cauſe of a common citizen. Siecle de Louis XIV. tom. 1, c. 2. Mem. du Duc de la Rochefoucault.

CHAP. III him king *. The eſtates of France divided the kingdom between his ſons Charles the Great and Carloman †. The latter of theſe dying in a few years left two ſons; but the nobility made Charles king of all France ‡. Lewis le Debonnaire ſucceeded upon the ſame title, was depoſed and put into a monaſtery by his three ſons Lothaire, Pepin, and Lewis, whom he had by his firſt wife. But though theſe left many ſons, the kingdom came to Charles the Bald. The nobility and people gave the kingdom to Lewis le Begue §, who had a legitimate ſon, called Charles le Simple; but his two baſtards, Lewis and Carloman, were made kings. Carloman had a ſon called Lewis le Faineant ¶: he was made king, but after-

* In former editions it is added: "He had three ſons; the eldeſt was made king of Italy, "and, dying before him, left a ſon called Bernard heir of that kingdom. The eſtates of "France divided what remained between Charles the Great and Carloman. The laſt of "theſe dying in a few years, left many ſons; but the nobility made Charles king of all "France, and he diſpoſſeſſed Bernard of the kingdom of Italy, inherited from his father: "ſo that he alſo was not king of the whole before the expulſion of Bernard the ſon of his "elder brother; nor of Aquitain, which by inheritance ſhould have belonged to the chil-"dren of his younger brother, any otherwiſe than by the will of the eſtates. Lewis le "Debonnaire, &c." Sidney, by truſting to his memory, has here made ſeveral groſs miſtakes. Pepin le Bref had four ſons, Charles or Charlemagne, Carloman, Pepin and Gilles. Pepin died when he was three years old; Gilles when very young was ſent into the monaſtery of Mount Soracte. Charlemagne and Carloman, on the death of their father, divided the kingdom, by the advice and direction of the ſtates. Writers do not agree in the account of their reſpective departments. Carloman however died ſoon afterwards, and left two ſons, but what became of them is not known. Charlemagne, upon this event, took poſſeſſion of the whole empire, in the year 771. This monarch had four ſons, Charles, Pepin, Lewis, and Lothaire. Lothaire died young, Charles was his father's aſſiſtant in the empire, Pepin was made king of Italy, and Lewis king of Aquitain in 781. Pepin died in 810, and Charles about the end of the following year. In 813 Charlemagne finding himſelf enfeebled with age, and daily declining, aſſembled the grandees of his kingdom at Aix la Chapelle; and, with their approbation, declared his ſon Lewis his aſſociate in the empire, and Bernard his grandſon, the illegitimate ſon of Pepin, king of Italy. In the reign of his ſon and ſucceſſor Lewis le Debonnaire, Bernard, having been perſuaded, that, as the ſon of the elder brother, he had a right to the whole kingdom, raiſed a conſpiracy againſt his uncle le Debonnaire. But before he had time to take his meaſures, his ſcheme was diſcovered, and he was apprehended, and put to death. See Mezeray, &c.

This account of king Pepin, and his immediate ſucceſſors, which might be confirmed by numerous authorities, will, it is hoped, convince the reader, that the paſſage above-cited is not altered, without ſufficient reaſon, in the preſent edition.

† Franci, facto ſolemniter generali conventu, ambos ſibi reges conſtituunt, eâ conditione praemiſſâ, ut totum regni corpus ex aequo partirentur; et Karolus eam partem, quam pater eorum Pippinus tenuerat, Karlomannus verò eam, cui patruus eorum Karlomannus praeerat, regendi gratiâ ſuſciperet. Suſceptae ſunt utrinque conditiones, et pars regni diviſi, juxta modum ſibi propoſitum, ab utroque recepta eſt. Vita Karoli Magni ab Eginardo ſcripta, apud Hiſt. Franc. Scriptores, per Du Cheſne editos, tom. 2, p. 95

‡ Carolus, mortuo, cùm jam tertium regnaret annum, fratre, proceres regni ejus ad ſe ultrò venientes, regemque ſe unum omnis Galliae ſalutantes, benigniſſimè excepit. P. Aemil. de Reb. Geſtis Franc. vol. 1. p. 72. Edit. Par. 1555

§ This paſſage in former editions ſtands thus: "The nobility and people, diſliking the eldeſt ſon of Charles, gave the kingdom to Lewis le Begue, &c." Charles the Bald, when he died, had only one ſon alive, which was Lewis le Begue. Vide Mezeray, P. Aemil. de Reb. Geſtis Franc. p. 109. — According to Aemilius, Le Begue was the eldeſt.

¶ Mezeray in his account of Carloman, ſays, "ce Louis le Faineant, que quelques-uns lui donnent, eſt un pure chimere."

wards.

wards depoſed for his vicious life. Charles le Gros ſucceeded him, but for his ill government was alſo depoſed; and Eudes, who was a ſtranger to the royal blood, was made king. The ſame nobility that had made five kings ſince Lewis le Begue, now made Charles le Simple king, who, according to his name, was entrapped at Peronne by Rodolph duke of Burgundy, and forced to reſign his crown, leaving only a ſon called Lewis, who fled into England. Rodolph being dead, they took Lewis ſurnamed Outremer, and placed him in the throne: he had two ſons, Lothaire and Charles. Lothaire ſucceeded him, and died without iſſue. Charles had as fair a title as could be by birth, and the eſtates confeſſed it; but their ambaſſadors told him, that he having by an unworthy life rendered himſelf unworthy of the crown, they, whoſe principal care was to have a good prince at the head of them, had choſen Hugh Capet*: and the crown continues in his race to this day, though not altogether without interruption. Robert, ſon to Hugh Capet, ſucceeded him. He left two ſons Robert and Henry; but Henry the younger ſon appearing to the eſtates of the kingdom to be more fit to reign than his elder brother, they made him king; Robert, and his deſcendents, continuing dukes of Burgundy only for about ten generations, at which time his iſſue male failing, that dutchy returned to the crown during the life of king John, who gave it to his ſecond ſon Philip for an appanage ſtill depending upon the crown. The ſame province of Burgundy was by the treaty of Madrid granted to the emperor Charles the fifth, by Francis the firſt†: but the people refuſed to be alienated, and the eſtates of the kingdom approved their refuſal. By the ſame authority Charles the ſixth was removed from the government, when he appeared to be mad: and other examples of a like nature may be alleged. From which we may ſafely conclude, that if the death of one king do really inveſt the next heir with the right and power, or if he who is ſo inveſted be ſubject to no law but his own will, all matters relating to that kingdom muſt have been horribly confuſed during the reigns of twenty two kings of Pharamond's race; they can have had no rightful king from the death of Childeric to king John; and the ſucceſſion ſince that time is very liable to be queſtioned, if not utterly overthrown by the houſe of Auſtria and others, who by the counts of Habſburg derive their deſcent from Pharamond, and by the houſe of Lorraine claiming from Charles, who was excluded by Capet: all which is moſt abſurd; and they who pretend it, bring as much confuſion into their own laws, and upon the polity of their own nation, as ſhame and guilt upon the memory of their anceſtors, who, by the moſt extreme injuſtice, have rejected their natural lord, or diſpoſſeſſed thoſe who had been in the moſt ſolemn manner placed in the government, and to whom they had generally ſworn allegiance. SECT. 18.

3. If the next heir be actually king, ſeized of the power by the death of his predeceſſor, ſo that there is no intermiſſion, then all the ſolemnities,

* De Serres en la vie de Hugues Capet. † In 1526. See Mezeray, De Serres, and

CHAP. III

and religious ceremonies, uſed at the coronations of their kings, with the oaths given and taken, are the moſt profane abuſes of ſacred things, in contempt of God and man, that can be imagined; eſpecially if the act be, as our author calls it, voluntary, and the king, receiving nothing by it, be bound to keep it no longer than he pleaſes. The prince who is to be ſworn, might ſpare the pains of watching all night in the church, faſting, praying, confeſſing, communicating, and ſwearing, "that he "will, to the utmoſt of his power, defend the clergy, maintain the union "of the church, obviate all exceſs, rapine, extortion, and iniquity; take "care, that in all judgments juſtice may be obſerved, with equity and "mercy, &c.*" or of invoking the aſſiſtance of the Holy Ghoſt for the better performance of his oath; and without ceremony tell the nobility and people, that he would do what he thought fit. It were to as little purpoſe for the archbiſhop of Rheims to take the trouble of ſaying maſs, delivering to him the crown, ſceptre, and other enſigns of royalty, explaining what is ſignified by them, anointing him with the oil which they ſay was delivered by an angel to St. Remigius †, bleſſing him, and praying to God to bleſs him, if he rightly performed his oath to God and the people, and denouncing the contrary in caſe of failure on his part, if theſe things conferred nothing upon him but what he had before, and were of no obligation to him. Such ludifications of the moſt ſacred things are too odious and impious to be imputed to nations that have any virtue, or profeſs Chriſtianity. This cannot fall upon the French and Spaniards, who had certainly a great zeal for religion, whatever it was; and were ſo eminent for moral virtues as to be a reproach to us, who live in an age of more knowledge. But their meaning is ſo well declared by their moſt ſolemn acts, that none but thoſe who are wilfully ignorant can miſtake. One of the councils held at Toledo declared by the clergy, nobility, and others aſſiſting, "that no man ſhould be placed in the royal ſeat till he "had ſworn to preſerve the church," &c. ‡ Another held in the ſame place

* Juramentum regis Franciae.

Haec populo Chriſtiano et mihi ſubdito, in Chriſti nomine promitto, In primis, ut eccleſiae Dei omnis populus Chriſtianus, veram pacem noſtro arbitrio in omni tempore ſervet; et ſuperioritatem, jura, et nobilitates coronae Franciae inviolabiliter cuſtodiam, et illa nec tranſportabo nec alienabo. Item, ut omnes rapacitates et omnes iniquitates omnibus gradibus interdicam. Item, ut in omnibus judiciis aequitatem et miſericordiam praecipiam, ut mihi et vobis indulgeat per ſuam miſericordiam clemens et miſericors Dominus. Item, de terrâ meâ ac juriſdictione mihi ſubditâ univerſos haereticos ab eccleſiâ denotatos, pro viribus, bonâ fide, exterminare ſtudebo. Haec omnia praedicta firmo juramento. Ordo ad inungendum, et coronandum Regem Franciae, cited by Selden in his Titles of Honor, p. 177, 181. Vide Bodin. de Repub. l. 1, c. 8, p. 138, Edit. Urſel. 1601

† The French have a ridiculous tradition, that a vial of holy oil was brought from heaven by an angel, or as it is more uſually reported, by a dove, at the coronation of Clovis the firſt; and that he was anointed with it by Remigius archbiſhop of Rheims. This oil, they tell us, ſtill remains at Rheims unwaſted, and is the ſame with which the French kings have ever ſince been anointed. See Selden's Titles of Honor, ch. 8, p. 112. Baronii Annal. vol. 6, ſub ann. 499, § 29

‡ Cum optimatum illuſtriumque virorum conſenſu et deliberatione ſancimus, ut quiſquis ſuccedentium temporum regni ſortitus fuerit apicem, non antè conſcendat regiam ſedem, quàm

place ſignified to Siſinandus, who was then newly crowned, " that if he, SECT. 18
" or any of his ſucceſſors, ſhould, contrary to their oaths, and the laws
" of their country, proudly and cruelly preſume to exerciſe domination
" over them, he ſhould be excommunicated, and ſeparated from Chriſt
" and them to eternal judgment *." The French laws, and their beſt writers, aſſerting the ſame things, are confirmed by perpetual practice. Henry of Navarre, though certainly, according to their rules, and in their eſteem, a moſt accompliſhed prince, was by two general aſſemblies of the eſtates held at Blois, deprived of the ſucceſſion for being a proteſtant; and notwithſtanding the greatneſs of his reputation, valour, victories, and affability, could never be admitted till he had made himſelf capable of the ceremonies of his coronation, by conforming to the religion which by the oath he was to defend †. Nay this preſent king, though haughty enough by nature, and elevated by many ſucceſſes, has acknowledged, as he ſays, with joy, that he can do nothing contrary to law, and calls it a happy impotence: in purſuance of which, he has annulled many acts of his father and grandfather, alienating the demeſnes of the crown, as things contrary to law, and not within their power.

Theſe things being confirmed by all the good authors of that nation, Filmer finds only the worſt to be fit for his turn; and neither minding law nor hiſtory, takes his maxims from a vile flattering diſcourſe of Beloy ‡, calculated for the perſonal intereſt of Henry the fourth then king of Navarre, in which he ſays, " that the heir apparent, though furious, " mad, a fool, vicious, and in all reſpects abominably wicked, muſt be " admitted to the crown." But Beloy was ſo far from attaining the ends deſigned by his book, that by ſuch doctrines, which filled all men with horror, he brought great prejudice to his maſter, and procured little favour from Henry, who deſired rather to recommend himſelf to his people, as the beſt man they could ſet up, than to impoſe a neceſſity upon them of taking him, if he had been the worſt. But our author, not contented with what this ſycophant ſays, in relation to ſuch princes as are placed in the government by a law eſtabliſhing the ſucceſſion by inheritance, with an impudence peculiar to himſelf, aſſerts the ſame right to be in any man, who by any means gets into power; and impoſes the ſame neceſſity of

quàm inter reliquas conditiones ſacramento policitus fuerit, hanc ſe catholicam non permiſſurum eos violare fidem, &c. Concil. Toletan. VI, anno 638. Vide Concil. edit. per P. Labb. tom. 5, col. 1743, § 3

* Sanè de futuris regibus hanc ſententiam promulgamus, ut ſi quis ex eis contra reverentiam legum ſuperbâ dominatione, et faſtu regio, in flagitiis et facinore, ſive cupiditate, crudeliſſimam poteſtatem in populis exercuerit, anathematis ſententiâ à Chriſto domino condemnetur, et habeat à Deo ſeperationem atque judicium, propter quod praeſumpſerit prava agere, et in perniciem regnum convertere. Concil. Toletan. IV, anno 633. Ibid. col. 1725, § 75

† Henry the third died in 1589, and Henry the fourth was not crowned till 1594. Vide Thuani Hiſt. tom. 5, l. 97, et ſeq.

‡ Apologie Catholique. See an account of M. Beloy and his Apology in Bayle's Dict. art. Beloy.

obedience

CHAP. III obedience upon the ſubject where there is no law, as Beloy does by virtue of one that is eſtabliſhed.

4. In the laſt place: as Beloy acknowledges, that the right belongs to princes only, where it is eſtabliſhed by law, I deny that there is, was, or ever can be any ſuch. No people is known to have been ſo mad or wicked, as by their own conſent, for their own good, and for the obtaining of juſtice, to give the power to beaſts, under whom it could never be obtained. Or if we could believe, that any had been guilty of an act ſo full of folly, turpitude, and wickedneſs, it could not have the force of a law, and could never be put in execution; for though the rules, by which the proximity ſhould be judged, be ever ſo preciſe, it will ſtill be doubted whoſe caſe ſuits beſt with them. Though the law in ſome places gives private inheritances to the next heir, and in others makes allotments according to ſeveral proportions, no one knows to whom, or how far, the benefit ſhall accrue to any man, till it be adjudged by a power to which the parties muſt ſubmit. Conteſts will in the like manner ariſe concerning ſucceſſions to crowns, how exactly ſoever they be diſpoſed by law. For though every one will ſay, that the next ought to ſucceed, yet no man knows who is the next: which is too much verified by the bloody deciſions of ſuch diſputes in many parts of the world. And he that ſays, the next in blood is actually king, makes all queſtions thereupon ariſing impoſſible to be otherwiſe determined, than by the ſword; the pretender to the right being placed above the judgment of man, and the ſubjects, for any thing I know, obliged to believe, ſerve, and obey him, if he ſays he has it. For otherwiſe, if either every man in particular, or all together, have a right of judging his title, it can be of no value till it be adjudged.

I confeſs, that the law of France, by the utter excluſion of females, and their deſcendents, does obviate many dangerous and inextricable difficulties; but others remain, which are ſufficient to ſubvert all the polity of that kingdom, if there be not a power of judging them; and there can be none if it be true, that "le mort ſaiſit le vif." Not to trouble myſelf with feigned caſes, that of legitimation alone will ſuffice. It is not enough to ſay, that the children born under marriage are to be reputed legitimate; for not only ſeveral children born of Joanna daughter to the king of Portugal, wife to Henry the fourth of Caſtile, during the time of their marriage, were utterly rejected, as begotten in adultery, but alſo her daughter Joanna, whom the king during his life, and at the hour of his death, acknowledged to have been begotten by him; and the only title that Iſabella, who was married to Ferdinand of Arragon, had to the crown of Spain, was derived from their rejection *. It would be tedious, and might give offence to many great perſons, if I ſhould relate all the dubious caſes, that have been, or ſtill remain in the world, touching matters of this nature. But the lawyers of all nations will teſtify, that hardly any one

* Iſabella was ſiſter to Henry the fourth. Mariana, l. 23, c. 13

point

point comes before them, which affords a greater number of difficult caſes, SECT. 18
than that of marriages, and the legitimation of children upon them; and nations muſt be involved in the moſt inextricable difficulties, if there be not a power ſomewhere to decide them; which cannot be, if there be no intermiſſion, and the next in blood (that is, he who ſays he is the next) be immediately inveſted with the right and power. But ſurely no people have been ſo careleſs of their moſt important concernments, as to leave them in ſuch uncertainty, and ſimply to depend upon the humour of a man, or the faith of women, who, beſides their other frailties, have been often accuſed of ſuppoſititious births: and mens paſſions are known to be ſo violent in relation to women they love or hate, that none can ſafely be truſted with thoſe judgments. The virtue of the beſt would be expoſed to a temptation, that fleſh and blood can hardly reſiſt; and ſuch as are leſs perfect would follow no other rule than the blind impulſe of the paſſion, that for the preſent reigns in them. There muſt therefore be a judge of ſuch diſputes as may in theſe caſes ariſe in every kingdom; and though it is not my buſineſs to determine, who is that judge in all places, yet I may juſtly ſay, that in England it is the parliament. If no inferior authority could debar Ignotus ſon to the lady Roſſe, born under the Protection, from the inheritance of a private family, none can certainly aſſume a power of diſpoſing of the crown upon any occaſion. No authority, but that of the parliament, could legitimate the children of Catharine Swinford, with a proviſo, not to extend to the inheritance of the crown*. Others might ſay, if they were lawfully begotten, they ought to inherit every thing; and nothing, if they were not: but the parliament knew how to limit a particular favour, and prevent it from extending to a public miſchief. Henry the eighth took an expeditious way of obviating part of the controverſies, that might ariſe from the multitude of his wives, by cutting off the heads of ſome, as ſoon as he was weary of them, or had a mind to take another; but having been hindered from dealing in the ſame manner with Catharine, by the greatneſs of her birth and kindred, he left ſuch as the parliament only could reſolve. And no leſs power would ever have thought of making Mary and Elizabeth capable of the ſucceſſion, when, according to ordinary rules, one of them muſt have been a baſtard; and it had been abſurd to ſay, that both of them were immediately upon the death of their predeceſſors poſſeſſed of the crown, if an act of parliament had not conferred the right upon them, which they could not have by birth. But the kings and princes of England have not been of a temper different from thoſe of other nations. And many examples may be brought of the like occaſions of diſpute happening every where; and the like will probably be for ever; which muſt neceſſarily introduce the moſt miſchievous confuſions, and expoſe the titles, which, as is pretended, are to be eſteemed moſt ſacred, to be overthrown by violence and fraud, if

* Wife to John of Gaunt, and ſiſter to the wife of Chaucer the poet.—Anno 1397, factum fuit parliamentum Londini, in quo dux Lancaſtriae legitimari fecit ſobolem, quam ſuſceperat de Catharinâ Swynforde. Walſing. Hiſt. Angl. p. 353. Vide Rym. Foedera, vol. 7, ſub ann. 1397, De legitimatione.

CHAP. III there be not in all places a power of deciding the controverſies that ariſe from the uncertainty of titles, according to the reſpective laws of every nation, upon which they are grounded. No man can be thought to have a juſt title, till it be ſo adjudged by that power: this judgment is the firſt ſtep to the throne: the oath taken by the king obliges him to obſerve the laws of his country; and that concerning the ſucceſſion being one of the principal, he is obliged to keep that part as well as any other.

SECTION XIX

THE GREATEST ENEMY OF A JUST MAGISTRATE IS HE WHO ENDEAVOURS TO INVALIDATE THE CONTRACT BETWEEN HIM AND THE PEOPLE, OR TO CORRUPT THEIR MANNERS.

It is not only from religion, but from the law of nature, that we learn the neceſſity of ſtanding to the agreements we make; and he who departs from the principle written in the hearts of men, "pactis ſtandum," ſeems to degenerate into a beaſt. Such as had virtue, though without true religion, could tell us, as a brave and excellent Grecian did, that it was not neceſſary for him to live, but it was neceſſary to preſerve his heart from deceit, and his tongue from falſhood. The Roman ſatiriſt carries the ſame notion to a great height and affirms, that "though the worſt of "tyrants ſhould command a man to be falſe and perjured, and back his "injunction with the utmoſt of torments, he ought to prefer his integrity "before his life.*" And though Filmer may be excuſed if he often miſtake in matters of theology; yet his inclinations to Rome, which he prefers before Geneva, might have led him to the principles in which the honeſt Romans lived, if he had not obſerved, that ſuch principles as make men honeſt and generous do alſo make them lovers of liberty, and conſtant in the defence of their country; which ſavouring too much of a republican ſpirit, he prefers the morals of that city, ſince they are become more refined by the pious and charitable Jeſuits, before thoſe that were remarkable in them, as long as they retained any ſhadow of their antient integrity, which admitted of no equivocations, and deteſted prevarications; by that means preſerving innocence in the hearts of private men, for their inward contentment, and in civil ſocieties, for the public good; which if once extinguiſhed, mankind muſt neceſſarily fall into the condition Hobbes rightly calls "bellum omnium contra omnes †," wherein no man can promiſe to himſelf any other wife, children, or goods, than he can procure by his own ſword.

* ——Phalaris licèt imperet, ut ſis
Falſus, et admoto dictet perjuria tauro,
Summum crede nefas animam praeferre pudori. Juv. Sat. 8, v. 81

† Negari non poteſt quin ſtatus hominum naturalis, antequam in ſocietatem coiretur, bellum fuerit, neque hoc ſimpliciter, ſed bellum omnium in omnes. Hobbes de Cive, c. 1, § 12. — Conditio hominum eſt conditio belli omnium contra omnes. Leviath. c. 14

Some may perhaps think, that the endeavours of our author to introduce such accurſed principles, as tend to the ruin of mankind, proceed from his ignorance. But though he appears to have had a great meaſure of that quality, I fear the evil proceeds from a deeper root; and that he attempts to promote the intereſts of ill magiſtrates, who make it their buſineſs to deſtroy all good principles in the people, with as much induſtry, as the good endeavour to preſerve them where they are, and teach them where they are wanting. Reaſon and experience inſtruct us, that every man acts according to the end he propoſes to himſelf. The good magiſtrate ſeeks the good of the people committed to his care, that he may perform the end of his inſtitution: and knowing that chiefly to conſiſt in juſtice and virtue, he endeavours to plant and propagate them; and by doing this he procures his own good as well as that of the public. He knows there is no ſafety where there is no ſtrength, no ſtrength without union, no union without juſtice, no juſtice where faith and truth, in accompliſhing public and private contracts, is wanting. This he perpetually inculcates, and thinks it a great part of his duty, by precept and example, to educate the youth in a love of virtue and truth, that they may be ſeaſoned with them, and filled with an abhorrence of vice and falſhood, before they attain that age which is expoſed to the moſt violent temptations, and in which they may, by their crimes, bring the greateſt miſchiefs upon the public. He would do all this, though it were to his own prejudice. But as good actions always carry a reward with them, theſe contribute in a high meaſure to his advantage. By preferring the intereſt of the people before his own, he gains their affection, and all that is in their power comes with it; whilſt he unites them to one another, he unites all to himſelf: in leading them to virtue, he increaſes their ſtrength, and by that means provides for his own ſafety, glory, and power. SECT. 19

On the other ſide, ſuch as ſeek different ends muſt take different ways. When a magiſtrate fancies he is not made for the people, but the people for him; that he does not govern for them, but for himſelf; and that the people live only to increaſe his glory, or furniſh matter for his pleaſures, he does not inquire what he may do for them, but what he may draw from them. By this means he ſets up an intereſt of profit, pleaſure, or pomp, in himſelf, repugnant to the good of the public, for which he is made to be what he is. Theſe contrary ends certainly divide the nation into parties; and whilſt every one endeavours to advance that to which he is addicted, occaſions of hatred for injuries every day done, or thought to be done, and received, muſt neceſſarily ariſe. This creates a moſt fierce and irreconcileable enmity, becauſe the occaſions are frequent, important, and univerſal, and the cauſes thought to be moſt juſt. The people think it the greateſt of all crimes, to convert that power to their hurt, which was inſtituted for their good; and that the injuſtice is aggravated by perjury and ingratitude, which comprehend all manner of ill; and the magiſtrate gives the name of ſedition or rebellion to whatever they do for the preſervation of themſelves, and their own rights. When men's

CHAP. III ſpirits are thus prepared, a ſmall matter ſets them on fire; but if no accident happen to blow them into a flame, the courſe of juſtice is certainly interrupted, the public affairs are neglected; and when any occaſion, whether foreign or domeſtic, ariſes, in which the magiſtrate ſtands in need of the people's aſſiſtance, they, whoſe affections are alienated, not only ſhew an unwillingneſs to ſerve him with their perſons and eſtates, but fear that by delivering him from his diſtreſs, they ſtrengthen their enemy, and enable him to oppreſs them: and he, fancying his will to be unjuſtly oppoſed, or his due more unjuſtly denied, is filled with a diſlike of what he ſees, and a fear of worſe for the future. Whilſt he endeavours to eaſe himſelf of the one, and to provide againſt the other, he uſually increaſes the evils of both, and jealouſies are on both ſides multiplied. Every man knows, that the governed are in a great meaſure under the power of the governor; but as no man, or number of men, is willingly ſubject to thoſe who ſeek their ruin, ſuch as fall into ſo great a misfortune, continue no longer under it than force, fear, or neceſſity, may be able to oblige them. But as ſuch a neceſſity can hardly lie longer upon a great people, than till the evil be fully diſcovered and comprehended, and their virtue, ſtrength, and power, be united to expel it, the ill magiſtrate looks upon all things, that may conduce to that end, as ſo many preparatives to his ruin; and by the help of thoſe, who are of his party, will endeavour to prevent that union, and diminiſh that ſtrength, virtue, power, and courage, which he knows to be bent againſt him. And as truth, faithful dealing, due performance of contracts, and integrity of manners, are bonds of union, and helps to good, he will always by tricks, artifices, cavils, and all means poſſible, endeavour to eſtabliſh falſhood and diſhoneſty; whilſt other emiſſaries and inſtruments of iniquity, by corrupting the youth, and ſeducing ſuch as can be brought to lewdneſs and debauchery, bring the people to ſuch a paſs, that they may neither care nor dare to vindicate their rights, and that thoſe who would do it, may ſo far ſuſpect each other, as not to confer upon, much leſs to join in any action tending to the public deliverance.

This diſtinguiſhes the good from the bad magiſtrate, the faithful from the unfaithful: and thoſe who adhere to either, living in the ſame principle, muſt walk in the ſame ways. They who uphold the rightful power of a juſt magiſtracy, encourage virtue and juſtice; teach men what they ought to do, ſuffer, or expect from others; fix them upon principles of honeſty; and generally advance every thing that tends to the increaſe of the valour, ſtrength, greatneſs, and happineſs of the nation, creating a good union among them, and bringing every man to an exact underſtanding of his own and the public rights. On the other ſide, he that would introduce an ill magiſtrate, make one evil who was good, or preſerve him in the exerciſe of injuſtice when he is corrupted, muſt always open the way for him by vitiating the people, corrupting their manners, deſtroying the validity of oaths and contracts, teaching ſuch evaſions, equivocations, and frauds, as are inconſiſtent with the thoughts, that become men of

virtue

virtue and courage; and overthrowing the confidence they ought to have in each other, make it impoſſible for them to unite among themſelves. The like arts muſt be uſed with the magiſtrate: he cannot be for their turn, till he is perſuaded to believe he has no dependence upon, and owes no duty to the people; that he is of himſelf, and not by their inſtitution; that no man ought to inquire into, nor be judge of his actions; that all obedience is due to him, whether he be good or bad, wiſe or fooliſh, a father or an enemy to his country. This being calculated for his perſonal intereſt, he muſt purſue the ſame deſigns, or his kingdom is divided within itſelf, and cannot ſubſiſt. By this means thoſe who flatter his humour, come to be accounted his friends, and the only men that are thought worthy of great truſts, while ſuch as are of another mind are expoſed to all perſecution. Theſe are always ſuch as excel in virtue, wiſdom, and greatneſs of ſpirit. They have eyes, and they will always ſee the way they go; and, leaving fools to be guided by implicit faith, will diſtinguiſh between good and evil, and chooſe that which is beſt. They will judge of men by their actions, and by them diſcovering whoſe ſervant every man is, know whether he is to be obeyed or not. Thoſe who are ignorant of all good, careleſs, or enemies to it, take a more compendious way; their ſlaviſh, vicious, and baſe natures, inclining them to ſeek only private and preſent advantages, they eaſily ſlide into a blind dependance upon one, who has wealth and power; and, deſiring only to know his will, care not what injuſtice they do, if they may be rewarded. They worſhip what they find in the temple, though it be the vileſt of idols; and always like that beſt which is worſt, becauſe it agrees with their inclinations and principles. When a party comes to be erected upon ſuch a foundation, debauchery, lewdneſs, and diſhoneſty, are the true badges of it. Such as wear them are cheriſhed. But the principal marks of favour are reſerved for thoſe, who are the moſt induſtrious in miſchief, either by ſeducing the people with the allurements of ſenſual pleaſures, or corrupting their underſtandings by falſe and ſlaviſh doctrines. By this means, a man who calls himſelf a philoſopher, or a divine, is often more uſeful than a great number of tapſters, cooks, buffoons, players, fidlers, whores, or bawds. Theſe are the devil's miniſters of a lower order; they ſeduce ſingle perſons; and ſuch as fall into their ſnares are for the moſt part men of the ſimpler ſort. But the principal ſupporters of his kingdom are they, who by falſe doctrines poiſon the ſprings of religion and virtue, and by preaching or writing, if their falſhood and wickedneſs were not detected, would extinguiſh all principles of common honeſty, and bring whole nations to be beſt ſatisfied with themſelves, when their actions are moſt abominable. And as the means muſt always be ſuitable to the end propoſed, the governments that are to be eſtabliſhed or ſupported by ſuch ways muſt needs be the worſt of all, and comprehend all manner of evil.

SECT. 19

SECTION XX

UNJUST COMMANDS ARE NOT TO BE OBEYED; AND NO MAN IS OBLIGED TO SUFFER FOR NOT OBEYING SUCH AS ARE AGAINST LAW.

In the next place our author gravely propoſes a queſtion, " whether it be " a ſin to diſobey the king, if he command any thing contrary to law?" and as gravely determines, " that not only in human laws, but even in " divine, a thing may be commanded contrary to law, and yet obedience " to ſuch a command is neceſſary. The ſanctifying of the ſabbath is a " divine law, yet if a maſter command his ſervant not to go to church " upon a ſabbath-day, the beſt divines teach us, that the ſervant muſt " obey, &c. It is not fit to tie the maſter to acquaint the ſervant with " his ſecret counſels." Though he frequently contradicts in one line what he ſays in another, this whole clauſe is uniform, and ſuitable to the main deſign of his book. He ſets up the authority of man in oppoſition to the command of God, gives it the preference, and ſays, the beſt divines inſtruct us ſo to do. St. Paul then muſt have been one of the worſt, for he knew, that the powers under which he lived had, under the ſevereſt penalties, forbidden the publication of the goſpel; and yet he ſays, " wo " to me if I preach it not." St. Peter was no better than he, for he tells us, " that it is better to obey God than man." And they could not ſpeak otherwiſe, unleſs they had forgotten the words of their Maſter, who told them, " they ſhould not fear them, that could only kill the body, but " him who could kill, and caſt into hell." And if I muſt not fear him, that can only kill the body, not only the reaſon, but all excuſe for obeying him, is taken away.

To prove what he ſays, he cites a pertinent example from St. Luke *, and very logically concludes, that becauſe Chriſt reproved the hypocriſy of the Phariſees (who generally adhered to the external and circumſtantial part of the law, neglecting the eſſential, and taking upon themſelves to be the interpreters of that which they did not underſtand) the law of God is not to be obeyed: and as ſtrongly proves, that becauſe Chriſt ſhewed them, that the ſame law, which, by their own confeſſion, permitted them to pull an aſs out of a pit on the ſabbath-day, could not but give a liberty of healing the ſick, therefore the commands of kings are to be obeyed, though they ſhould be contrary to human and divine laws. But if perverſeneſs had not blinded him, he might have ſeen, that this very text is wholly againſt his purpoſe; for the magiſtratical power was on the ſide of the Phariſees, otherwiſe they would not have ſought an occaſion to enſnare him; and that power having perverted the law of God by falſe gloſſes, and a ſuperinduction of human traditions, prohibited the moſt neceſſary

* Ch. 14, v. 5

acts

acts of charity to be done on the ſabbath-day, which Chriſt reproved, and reſtored the ſick man to his health in their ſight. SECT. 20.

But I could wiſh our author had told us the names of thoſe divines, who, he ſays, are the beſt, and who pretend to teach us theſe fine things. I know ſome who are thought good, that are of a contrary opinion, and ſay, that God having required that day to be ſet apart for his ſervice and worſhip, man cannot diſpenſe with the obligation, unleſs he can abrogate the law of God. Perhaps, for want of other arguments to prove the contrary, I may be told, that this favours too much of puritaniſm and calviniſm. But I ſhall take the reproach, till ſome better patrons than Laud, and his creatures, may be found for the other opinion. By the advice and inſtigation of theſe men, from about the year 1630, to 1640, ſports and revelings, which ended, for the moſt part, in drunkenneſs and lewdneſs, were not only permitted on that day, but injoined. And though this did advance human authority in derogation to the divine, to a degree that may pleaſe ſuch as are of our author's mind; yet others, reſolving rather to obey the laws of God than the commands of men, could not be brought to paſs the Lord's day in that manner. Since that time no man, except Filmer and Heylin, has been ſo wicked as to conceive, or ſo impudent as to aſſert ſuch brutal abſurdities. But leaving the farther conſideration of the original of this abuſe, I deſire to know, whether the authority given to maſters to command things contrary to the law of God be peculiar in relation to the ſabbath, or to a few other points, or ought generally to extend to all God's laws; and whether he who may command his ſervant to act contrary to the law of God, have not a right in himſelf of doing the ſame. If peculiar, ſome authority or precept muſt be produced, by which it may appear, that God has ſlighted his ordinance concerning that day, and ſuffered it to be contemned, whilſt he exacts obedience to all others. If we have a liberty left to us of ſlighting others alſo more or leſs in number, we ought to know how many, what they are, and how it comes to paſs, that ſome are of obligation, and others not. If the empire of the world is not only divided between God and Caeſar, but every man alſo, who can give five pounds a year to a ſervant, has ſo great a part in it, that, in ſome caſes, his commands are to be obeyed preferably to thoſe of God, it were fit to know the limits of each kingdom, leſt we happen prepoſterouſly to obey man, when we ought to obey God, or God, when we are to follow the commands of men. If it be general, the law of God is of no effect, and we may ſafely put an end to all thoughts and diſcourſes of religion; the word of God is nothing to us; we are not to inquire what he has commanded, but what pleaſes our maſter, how inſolent, fooliſh, vile, or wicked, ſoever he may be. The apoſtles and prophets, who died for preferring the commands of God before thoſe of men, fell like fools, and periſhed in their ſins. But if every particular man that has a ſervant, can exempt him from the commands of God, he may alſo exempt himſelf, and the laws of God are at once abrogated throughout the world.

It

CHAP. III It is a folly to ſay there is a paſſive, as well as an active obedience, and that he who will not do what his maſter commands, ought to ſuffer the puniſhment he inflicts: for, if the maſter has a right of commanding, there is a duty incumbent on the ſervant of obeying. He who ſuffers for not doing that which he ought to do draws upon himſelf both the guilt and the puniſhment. But no one can be obliged to ſuffer for that which he ought not to do, becauſe he who pretends to command, has not ſo far an authority. However, our queſtion is, whether the ſervant ſhould forbear to do that which God commands, rather than whether the maſter ſhould put away or beat him, if he do not: for if the ſervant ought to obey his maſter rather than God, as our author ſays the beſt divines aſſert, he ſins in diſobeying, and that guilt cannot be expiated by his ſuffering. If it be thought I carry this point to undue extremity, the limits ought to be demonſtrated, by which it may appear that I exceed them, though the nature of the caſe cannot be altered: for if the law of God may not be abrogated by the commands of men, a ſervant cannot be exempted from keeping the ſabbath according to the ordinance of God, at the will of his maſter. But if a power be given to man at his pleaſure to annul the laws of God, the apoſtles ought not to have preached, when they were forbidden by the powers to which they were ſubject; the tortures and deaths they ſuffered for not obeying that command were juſt, and their blood was upon their own heads.

His ſecond inſtance concerning wars, in which he ſays the ſubject is not to examine whether they are juſt or unjuſt, but muſt obey, is weak and frivolous, and very often falſe: whereas conſequences can rightly be drawn from ſuch things only as are certainly and univerſally true. Though God may be merciful to a ſoldier, who by the wickedneſs of a magiſtrate, whom he honeſtly truſts, is made a miniſter of injuſtice, it is nothing to this caſe. For, if our author ſay true, that the word of a king can juſtify him in going againſt the command of God, he muſt do what is commanded, though he think it evil; the chriſtian ſoldiers under the pagan emperors were obliged to deſtroy their brethren, and the beſt men in the world, for being ſo; ſuch as now live under the Turk have the ſame obligation upon them of defending their maſter, and ſlaughtering thoſe he reputes his enemies for adhering to chriſtianity; and the king of France may, when he pleaſes, arm one part of his proteſtant ſubjects to the deſtruction of the other; which is a godly doctrine, and worthy our author's invention.

But, if this be ſo, I know not how the Iſraelites can be ſaid to have ſinned in following the examples of Jeroboam, Omri, Ahab, or other wicked kings: they could not have ſinned in obeying, if it had been a ſin to diſobey their commands; and God would not have puniſhed them ſo ſeverely, if they had not ſinned. It is impertinent to ſay they were obliged to ſerve their kings in unjuſt wars, but not to ſerve idols; for though God be jealous of his glory, yet he forbids rapine and murder as well as idolatry. If there be a law that forbids the ſubject to examine the

commands tending to the one, it cannot but injoin obedience to the other. SECT. 21
The ſame authority which juſtifies murder takes away the guilt of idolatry; and the wretches, both judges and witneſſes, who put Naboth to death, could as little allege ignorance, as thoſe that worſhipped Jeroboam's calves; the ſame light of nature by which they ſhould have known, that a ridiculous image was not to be adored as God, inſtructing them alſo, that an innocent man ought not, under pretence of law, to be murdered by perjury.

SECTION XXI

IT CANNOT BE FOR THE GOOD OF THE PEOPLE, THAT THE MAGISTRATE HAVE A POWER ABOVE THE LAW: AND HE IS NOT A MAGISTRATE, WHO HAS NOT HIS POWER BY LAW.

That we may not be diſpleaſed, or think it dangerous and ſlaviſh to depend upon the will of a man, which perhaps may be irregular or extravagant in one who is ſubject to no law, our author very dexterouſly removes the ſcruples by telling us,

1. "That the prerogative of the king to be above all laws is only for "the good of them that are under the laws, and to preſerve their liberties.

2. "That there can be no laws without a ſupreme power to command "or make them. In ariſtocracies the nobles are above the laws; in "democracies the people. By the like reaſon, in a monarchy, the king "muſt of neceſſity be above the laws: there can be no ſovereign majeſty "in him that is under them: that which gives the very being to a king "is the power to give laws: without this power he is but an equivocal "king: it ſkills not how he comes by this power, whether by election, "donation, ſucceſſion, or any other means." I am contented in ſome degree to follow our author, and to acknowledge, that the king neither has, nor can have, any prerogative which is not for the good of the people, and the preſervation of their liberties. This therefore is the foundation of magiſtratical power, and the only way of diſcerning, whether the prerogative of making laws, of being above laws, or any other he may pretend, be juſtly due to him or not. And if it be doubted who is the fitteſt judge to determine that queſtion, common ſenſe will inform us, that if the magiſtrate receive his power by election or donation, they who elect, or give him that power, beſt know whether the good they ſought be performed or not: if by ſucceſſion, they who inſtituted the ſucceſſion: if otherwiſe, that is, by fraud or violence, the point is decided; for he has no right at all, and none can be created by thoſe means. This might be ſaid, though all the princes were of ripe age, ſober, wiſe, juſt, and good; for even the beſt are ſubject to miſtakes and paſſions, and therefore unfit to be judges of their own concernments, in which they may by various

CHAP. III means be miſguided: but it would be extreme madneſs to attribute the ſame to children, fools, or madmen, who are not able to judge of the leaſt things concerning themſelves or others; but eſpecially to thoſe who, coming in by uſurpation, declare their contempt of all human and divine laws, and are enemies to the people they oppreſs. None therefore can be judges of ſuch caſes but the people, for whom and by whom the conſtitutions are made; or their repreſentatives and delegates, to whom they give the power of doing it.

But nothing can be more abſurd than to ſay, that one man has an abſolute power above law to govern according to his will, "for the peo- "ple's good, and the preſervation of their liberty:" for no liberty can ſubſiſt where there is ſuch a power; and we have no other way of diſtinguiſhing between free nations, and ſuch as are not ſo, than that the free are governed by their own laws and magiſtrates, according to their own mind, and the others either have willingly ſubjected themſelves, or are by force brought under the power of one or more men, to be ruled according to his or their pleaſure. The ſame diſtinction holds in relation to particular perſons. He is a free man who lives as beſt pleaſes himſelf, under laws made by his own conſent; and the name of ſlave can belong to no man, unleſs to him who is either born in the houſe of a maſter, bought, taken, ſubdued, or willingly gives his ear to be nailed to the poſt, and ſubjects himſelf to the will of another. Thus were the Grecians ſaid to be free, in oppoſition to the Medes and Perſians, as Artabanus acknowledged in his diſcourſe to Themiſtocles *. In the ſame manner the Italians, Germans, and Spaniards, were diſtinguiſhed from the eaſtern nations, who, for the moſt part, were under the power of tyrants †. Rome was ſaid to have recovered liberty by the expulſion of the Tarquins; or as Tacitus expreſſes it, "Lucius Brutus eſtabliſhed liberty and the conſulate "together ‡," as if before that time they had never enjoyed any; and Julius Caeſar is ſaid to have overthrown the liberty of that people. But if Filmer deſerve credit, the Romans were free under Tarquin, enſlaved when he was driven away, and his prerogative extinguiſhed, that was ſo neceſſarily required for the defence of their liberty; and were never reſtored to it, till Caeſar aſſumed all the power to himſelf. By the ſame rule the Switzers, Griſons, Venetians, Hollanders, and ſome other nations, are now ſlaves; and Tuſcany, the kingdom of Naples, the eccleſiaſtical ſtate, with ſuch as live under a more gentle maſter on the other ſide of the water, I mean the Turk, are free nations. Nay, the Florentines, who complain of ſlavery under the houſe of the Medici, were made free by the power of a Spaniſh army, who ſet up a prerogative in

* Ὑμας μεν, ειπεν ὁ Αρταβανος, ελευθεριαν μαλιστα θαυμαζειν και ισοτητα, λογος· ἡμιν δε πολλων νομων και καλων ονλων καλιστος ὁτος εστι, το τιμαν βασιλεα. Plut. in vitâ Themiſt. p. 125.

† Οἱ περι την Ασιαν ὑπομενεσι την δεσποτικην αρχην ουδεν δυσχεραινονλες. Ariſt. Polit. l. 3, c. 14.— Ασσυριοι και Μηδοι τας τυραννιδας προσκυνεσι. Philoſtr. de vitâ Apollonii, l. 7, c. 6. — Judaeis et Syris, nationibus natis ſervituti. Cic. Orat. de Provinc. conſular. § 10. — Servirent Syria, Aſiaque, et ſuetus regibus oriens. Tacit. Hiſt. l. 4, § 17.

‡ Libertatem et conſulatum L. Brutus inſtituit. Tacit. Annal. l. 1, § 1.

that

that gentle family, which for their good has deſtroyed all that could juſtly be called ſo in that country, and almoſt wholly diſpeopled it. I who eſteem myſelf free, becauſe I depend upon the will of no man, and hope to die in the liberty I inherit from my anceſtors, am a ſlave; and the Moors or Turks, who may be beaten and killed, whenever it pleaſes their inſolent maſters, are free men. But ſurely the world is not ſo much miſtaken in the ſignification of words and things. The weight of chains, number of ſtripes, hardneſs of labour, and other effects of a maſter's cruelty, may make one ſervitude more miſerable than another: but he is a ſlave who ſerves the beſt and gentleſt man in the world, as well as he who ſerves the worſt; and he does ſerve him, if he muſt obey his commands, and depends upon his will. For this reaſon the poet ingeniouſly flattering a good emperor, ſaid, that liberty was not more deſirable, than to ſerve a gentle maſter; but ſtill acknowledged, that it was a ſervice, diſtinct from, and contrary to liberty *: and it had not been a handſome compliment, unleſs the evil of ſervitude were ſo extreme, that nothing but the virtue and goodneſs of the maſter could any way compenſate or alleviate it. Now, though it ſhould be granted, that he had ſpoken more like to a philoſopher than a poet; that we might take his words in the ſtricteſt ſenſe, and think it poſſible to find ſuch conveniences in a ſubjection to the will of a good and wiſe maſter, as may balance the loſs of liberty, it would be nothing to the queſtion; becauſe that liberty is thereby acknowledged to be deſtroyed by the prerogative, which is only inſtituted to preſerve it. If it were true, that no liberty were to be preferred before the ſervice of a good maſter, it could be of no uſe to the periſhing world, which Filmer, and his diſciples, would, by ſuch arguments, bring into a ſubjection to children, fools, mad, or vicious men. Theſe are not caſes feigned upon a diſtant imaginary poſſibility, but ſo frequently found among men, that there are few examples of the contrary. And as it is folly to ſuppoſe, that princes will always be wiſe, juſt, and good, when we know, that few have been able alone to bear the weight of a government, or to reſiſt the temptations to ill, that accompany an unlimited power, it would be madneſs to preſume they will for the future be free from infirmities and vices. And if they be not, the nations under them will not be in ſuch a condition of ſervitude to a good maſter as the poet compares to liberty, but in a miſerable and ſhameful ſubjection to the will of thoſe who know not how to govern themſelves, or to do good to others. Though Moſes, Joſhua, and Samuel, had been able to bear the weight of an unreſtrained power; though David and Solomon had never abuſed that which they had, what effect could this have had upon a general propoſition? Where are the families that always produce ſuch as they were? When did God promiſe to aſſiſt all thoſe who ſhould attain to the ſovereign

SECT. 21

* Sidney ſeems to allude to the following lines:
Fallitur egregio quiſquis ſub principe credit
Servitium: nunquam libertas gratior extat,
Quàm ſub rege pio. —— Claud. de Laud. Stilic. l. 3, v. 114

CHAP. III power, as he did them whom he choſe for the works he deſigned? Or what teſtimony can Filmer give us, that he has been preſent with all thoſe who have hitherto reigned in the world? But if we know, that no ſuch thing either is, or has been; and can find no promiſe to aſſure us, nor reaſon to hope, that it ever will be, it is as fooliſh to found the hopes of preſerving a people upon that which never was, or is ſo likely to fail, nay rather which in a ſhort time moſt certainly will fail, as to root up vines and fig-trees, in expectation of gathering grapes and figs from thiſtles and briars. This would be no leſs than to extinguiſh the light of common ſenſe, to neglect the means that God has given us to provide for our ſecurity, and to impute to him a diſpoſition of things utterly inconſiſtent with his wiſdom and goodneſs. If he has not therefore ordered, that thorns and thiſtles ſhould produce figs and grapes, nor that the moſt important works in the world, which are not without the utmoſt difficulty, if at all, to be performed by the beſt and wiſeſt of men, ſhould be put into the hands of the weakeſt, moſt fooliſh, and worſt, he cannot have ordained, that ſuch men, women, or children, as happen to be born in reigning families, or get the power into their hands by fraud, treachery, or murder, as very many have done, ſhould have a right of diſpoſing all things according to their will. And if men cannot be guilty of ſo great an abſurdity as to truſt the weakeſt and worſt with a power which uſually ſubverts the wiſdom and virtue of the beſt; or to expect ſuch effects of virtue and wiſdom from thoſe who come by chance, as can hardly, if at all, be hoped from the moſt excellent, our author's propoſition can neither be grounded upon the ordinance of God, nor the inſtitution of man. Nay, if any ſuch thing had been eſtabliſhed by our firſt parents in their ſimplicity, the utter impoſſibility of attaining what they expected from it muſt wholly have abrogated the eſtabliſhment: or rather, it had been void from the beginning, becauſe it was not "a juſt ſanction, command-"ing things good, and forbidding the contrary *," but a fooliſh and perverſe ſanction, ſetting up the unruly appetite of one perſon to the ſubverſion of all that is good in the world, by making the wiſdom of the aged and experienced to depend upon the will of women, children, and fools; by ſending the ſtrong and the brave to ſeek protection from the moſt weak and cowardly, and ſubjecting the moſt virtuous and beſt of men to be deſtroyed by the moſt wicked and vicious. Theſe being the effects of that unlimited prerogative, which, our author ſays, was only inſtituted for the good and defence of the people, it muſt neceſſarily fall to the ground, unleſs ſlavery, miſery, infamy, deſtruction, and deſolation, tend to the preſervation of liberty, and are to be preferred before ſtrength, glory, plenty, ſecurity, and happineſs. The ſtate of the Roman empire after the uſurpation of Cæſar will ſet this matter in the cleareſt light; but having done it already in the former parts of this work, I content myſelf to refer to thoſe places. And though the calamities they ſuffered were a

* Sanctio recta, jubens honeſta, prohibens contraria. Vide ſuprâ, p. 327.

little

little allayed and moderated by the virtues of Antoninus and M. Aurelius, SECT. 21
with one or two more, yet we have no example of the continuance of them in a family, nor of any nation, great or ſmall, that has been under an abſolute power, which does not too plainly manifeſt, that no man, or ſucceſſion of men, is to be truſted with it.

But, ſays our author, "there can be no law where there is not a "ſupreme power;" and from thence very ſtrongly concludes it muſt be in the king; for "otherwiſe there can be no ſovereign majeſty in him, "and he is but an equivocal king." This might have been of ſome force, if governments were eſtabliſhed, and laws made, only to advance that ſovereign majeſty; but nothing at all to the purpoſe, if, as he confeſſes, the power which the prince has, be given for the good of the people, and for the defence of every private man's life, liberty, lands and goods; for that which is inſtituted cannot be abrogated for want of that which was never intended in the inſtitution. If the public ſafety be provided for, liberty and propriety ſecured, juſtice adminiſtred, virtue encouraged, vice ſuppreſſed, and the true intereſt of the nation advanced, the ends of government are accompliſhed; and the higheſt muſt be contented with ſuch a proportion of glory and majeſty as is conſiſtent with the public; ſince the magiſtracy is not inſtituted, nor any perſon placed in it for the increaſe of his majeſty, but for the preſervation of the whole people, and the defence of the liberty, life, and eſtate of every private man, as our author himſelf is forced to acknowledge.

But what is this ſovereign majeſty, ſo inſeparable from royalty, that one cannot ſubſiſt without the other? Caligula placed it in a power of doing what he pleaſed to all men*. Nimrod, Nabuchodonoſor, and others, with an impious and barbarous inſolence boaſted of the greatneſs of their power. They thought it a glorious privilege to kill or ſpare whom they pleaſed. But ſuch kings, as by God's permiſſion might have been ſet up over his people, were to have nothing of this. They were not to multiply gold, ſilver, wives, or horſes; they were not to govern by their own will, but according to the law; from which they might not recede, nor raiſe their hearts above their brethren. Here were kings without that unlimited power, which makes up the ſovereign majeſty, that Filmer affirms to be ſo eſſential to kings, that without it they are only equivocal; which proving nothing but the incurable perverſeneſs of his judgment, the malice of his heart, or malignity of his fate, always to oppoſe reaſon and truth, we are to eſteem thoſe to be kings who are deſcribed to be ſo by the Scriptures, and to give another name to thoſe who endeavour to advance their own glory, contrary to the precept of God, and the intereſt of mankind.

But unleſs the light of reaſon had been extinguiſhed in him, he might have ſeen, that though no law could be made without a ſupreme power, that ſupremacy may be in a body conſiſting of many men, and ſeveral

* Memento, ait, omnia mihi in omnes licere. Suet. in vitâ Calig. § 29.

CHAP. III orders of men. If it be true, which perhaps may be doubted, that there have been in the world ſimple monarchies, ariſtocracies, or democracies, legally eſtabliſhed, it is certain, that the moſt part of the governments of the world (and I think all that are or have been good) were mixed. Part of the power has been conferred upon the king, or the magiſtrate that repreſented him, and part upon the ſenate and people, as has been proved in relation to the governments of the Hebrews, Spartans, Romans, Venetians, Germans, and all thoſe who live under that which is uſually called the Gothic polity. If the ſingle perſon participating of this divided power diſlike either the name he bears, or the authority he has, he may renounce it; but no reaſon can be from thence drawn to the prejudice of nations, who give ſo much as they think conſiſtent with their own good, and reſerve the reſt to themſelves, or to ſuch other officers as they pleaſe to eſtabliſh.

No man will deny, that ſeveral nations have had a right of giving power to conſuls, dictators, archons, ſuffetes, dukes, and other magiſtrates, in ſuch proportions as ſeemed moſt conducive to their own good; and there muſt be a right in every nation of allotting to kings ſo much as they pleaſe, as well as to the others, unleſs there be a charm in the word king, or in the letters that compoſe it. But this cannot be; for there is no ſimilitude between "king," "rex," and "baſileus:" they muſt therefore have a right of regulating the power of kings, as well as that of conſuls or dictators; and it had not been more ridiculous in Fabius, Scipio, Camillus, or Cincinnatus, to aſſert an abſolute power in himſelf, under pretence of advancing his ſovereign majeſty againſt the law, than for any king to do the like. But as all nations give what form they pleaſe to their government, they are alſo judges of the name to be impoſed upon each man, who is to have a part in the power: and it is as lawful for us to call him king, who has a limited authority among us, as for the Medes or Arabs to give the ſame name to one who is more abſolute. If this be not admitted, we are content to ſpeak improperly; but utterly deny, that when we give the name, we give any thing more than we pleaſe; and had rather his majeſty ſhould change his name, than we renounce our own rights and liberties, which he is to preſerve, and which we have received from God and nature.

But that the folly and wickedneſs of our author may not be capable of any farther aggravation, he ſays, "that it ſkills not how he come by the "power." Violence therefore, or fraud, treachery or murder, are as good as election, donation, or legal ſucceſſion. It is in vain to examine the laws of God or man, the rights of nature, whether children do inherit the dignities and magiſtracies of their fathers, as patrimonial lands and goods, whether regard ought to be had to the fitneſs of the perſon, whether all ſhould go to one, or be divided among them, or by what rule we may know who is the right heir to the ſucceſſion, and conſequently, what we are in conſcience obliged to do. Our author tells us in ſhort, it matters not how he that has the power comes by it.

It

It has been hitherto thought, that to kill a king, eſpecially a good king, was a moſt abominable action. They who did it were thought to be incited by the worſt of paſſions, that can enter into the hearts of men; and the ſevereſt puniſhments have been invented to deter them from ſuch attempts, or to avenge their death upon thoſe who ſhould accompliſh it. But, if our author may be credited, it muſt be the moſt commendable and glorious act that can be performed by man: for, beſides the outward advantages that men ſo earneſtly deſire, he that does it is preſently inveſted with the ſovereign majeſty, and at the ſame time becomes God's vicegerent, and the father of his country, poſſeſſed of that government, which, in excluſion to all other forms, is only favoured by the laws of God and nature. The only inconvenience is, that all depends upon ſucceſs, and he that is to be the miniſter of God, and father of his country if he ſucceed, is the worſt of all villains, if he fail; and, at the beſt, may be deprived of all by the ſame means he employed to gain it. Though a prince ſhould have the wiſdom and virtues of Moſes, the valour of Joſhua, David, and the Maccabees, with the gentleneſs and integrity of Samuel, the moſt fooliſh, vicious, baſe, and deteſtable man in the world that kills him, and ſeizes the power, becomes his heir, and father of the people that he governed: it ſkills not how he did it, whether in open battle, or by ſecret treachery, in the field, or in the bed, by poiſon, or by the ſword. The vileſt ſlave in Iſrael had become the Lord's anointed, if he could have killed David or Solomon, and found villains to place him in the throne. If this be right, the world has to this day lived in darkneſs, and the actions which have been thought to be the moſt deteſtable, are the moſt commendable and glorious. But not troubling myſelf at preſent to decide this queſtion, I leave it to kings to conſider how much they are beholden to Filmer, and his diſciples, who ſet ſuch a price upon their heads, as would render it hard to preſerve their lives one day, if the doctrines were received which they endeavour to infuſe into the minds of the people; and concluding this point, only ſay, that we in England know no other king than he who is ſo by law, nor any power in that king except that which he has by law. And though the Roman empire was held by the power of the ſword, and Ulpian, a corrupt lawyer, undertakes to ſay, that "the prince is not obliged by the laws *," yet Theodoſius confeſſed, that it was the glory of a good emperor to acknowledge himſelf bound by them †. SECT. 21

* Princeps legibus ſolutus eſt. Auguſta autem, licèt legibus ſoluta non eſt, principes tamen eadem illi privilegia tribuunt, quae ipſi habent. Ulpian. ad legem Juliam et Papiam, l. 13. Cujacius and other commentators agree, that this paſſage is not to be taken in an abſolute ſenſe, but to be underſtood only, "de poenariis legibus." Cujacii Obſerv. l. 15, c. 30. tom. 3, p. 406. Gothofredi Corpus Juris Civilis, p. 79. Edit. Amſt. 1663.

† Digna vox eſt majeſtate regnantis legibus alligatum ſe principem profiteri: adeò de auctoritate juris noſtra pendet auctoritas; et reverà majus imperio eſt ſubmittere legibus principatum. Edict. ad Voluſianum. Juſtin. Cod. l. 1, tit. 14, c. 4.

SECTION XXII

THE RIGOUR OF THE LAW IS TO BE TEMPERED BY MEN OF KNOWN INTEGRITY AND JUDGMENT, AND NOT BY THE PRINCE, WHO MAY BE IGNORANT OR VICIOUS.

Our author's next ſhift is to place the king above the law, that he may mitigate the rigour of it, without which, he ſays, "the caſe of ſubjects would be deſperately miſerable." But this cure would prove worſe than the diſeaſe. Such pious fathers of the people as Caligula, Nero, or Domitian, were not like to mitigate the rigour; nor ſuch as inherit crowns in their infancy (as the preſent kings of Spain, France, and Sweden) ſo well to underſtand the meaning of it as to decide extraordinary caſes. The wiſdom of nations has provided more aſſured helps; and none could have been ſo brutiſh and negligent of the public concernments, as to ſuffer the ſucceſſion to fall to women, children, &c. if they had not reſerved a power in themſelves to prefer others before the neareſt in blood, if reaſon require; and preſcribed ſuch rules as might preſerve the public from ruin, notwithſtanding their infirmities and vices. Theſe helps provided by our laws, are principally by grand and petty juries, who are not only judges of matters of fact, as whether a man be killed, but whether he be killed criminally. Theſe men are upon their oaths, and may be indicted of perjury if they prevaricate: the judges are preſent, not only to be a check upon them, but to explain ſuch points of the law as may ſeem difficult. And though theſe judges may be ſaid in ſome ſenſe to be choſen by the king, he is not underſtood to do it otherwiſe than by the advice of his council, who cannot perform their duty, unleſs they propoſe ſuch as in their conſciences they think moſt worthy of the office, and moſt capable of performing the duty rightly; nor he accompliſh the oath of his coronation, unleſs he admit thoſe, who upon deliberation ſeem to be the beſt. The judges being thus choſen, are ſo far from depending upon the will of the king, that they ſwear faithfully to ſerve the people as well as the king, and to do juſtice to every man according to the law of the land, notwithſtanding any writs, letters, or commands received from him; and in default thereof they are to forfeit their bodies, lands, and goods, as in caſes of treaſon *. Theſe laws have been ſo often, and ſo ſeverely executed,

* The form of the oath of the juſtices of both benches, made A. D. 1344

"Ye ſhall ſware, that well and faithfully ye ſhall ſerve our lord the king, and his people, "in the office of juſtice . . . that ye ſhall do equal law, and execution of right to all "his ſubjects, rich and poor, without having regard to any perſon . . . . that ye deny to "no man common right, by the king's letters, nor none other man's, nor for none other "cauſe; and in caſe any letters come to you contrary to the law, that ye do nothing by ſuch "letters, but certify the king thereof, and proceed to execute the law, notwithſtanding "the

cuted, that it concerns all judges well to conſider them; and the caſes of SECT. 22
Treſilian, Empſon, Dudley, and others, ſhew, that neither the king's preceding command, nor ſubſequent pardon, could preſerve them from the puniſhment they deſerved. All men knew, that what they did was agreeable to the king's pleaſure; for Treſilian advanced the prerogative of Edward the ſecond, and Empſon brought great treaſures into the coffers of Henry the ſeventh. Nevertheleſs they were charged with treaſon for ſubverting the laws of the land, and executed as traitors. Though England ought never to forget the happy reign of queen Elizabeth, yet it muſt be acknowledged, that ſhe as well as others had her failings. She was full of love to the people, juſt in her nature, ſincere in her intentions; but could not ſo perfectly diſcover the ſnares that were laid for her, or reſiſt the importunity of the perſons ſhe moſt truſted, as not ſometimes to be brought to attempt things againſt law. She and her counſellors preſſed the judges very hardly to obey the patent under her great ſeal, in the caſe of Cavendiſh: but they anſwered, "that both ſhe and they had taken an "oath to keep the law; and, if they ſhould obey her commands, the "law would not warrant them, etc." And beſides the offence againſt God, their country, and the commonwealth, they alleged the example of Empſon and Dudley, whereby, they ſaid, "they were deterred from "obeying her illegal commands *." They who had ſworn to keep the law, notwithſtanding the king's writs, knew that the law depended not upon his will. And the ſame oath, that obliged them not to regard any command they ſhould receive from him, ſhewed that they were not to expect indemnity by it; and not only that the king had neither the power of making, altering, mitigating, or interpreting the law, but that he was not at all to be heard, in general or particular matters, otherwiſe than as he ſpeaks in the common courſe of juſtice, by the courts legally eſtabliſhed, which ſay the ſame thing, whether he be young or old, ignorant or wiſe, wicked or good. And nothing does better evidence the wiſdom and care of our anceſtors, in framing the laws and government we live under, than that the people did not ſuffer extremities by the vices or infirmities of kings, till an age more full of malice than thoſe in which they lived had found tricks to pervert the rule, and fruſtrate their honeſt intentions. It was not ſafe for the kings to violate their oaths by an undue interpoſition of their authority; but the miniſters who ſerved them in thoſe violations have ſeldom eſcaped puniſhment. This is to be underſtood when the deviations from juſtice are extreme and miſchievous, for ſomething muſt always be allowed to human frailty: the beſt have their defects, and none could ſtand, if a too exact ſcrutiny were made of all their actions.

"the ſame letters; and that ye ſhall do and procure the profit of the king, and of his crown, "with all things, where ye may reaſonably do the ſame. And in caſe ye be from henceforth "found in default in any of the points aforeſaid, ye ſhall be at the king's will, of body, "lands, and goods, thereof to be done as ſhall pleaſe him, as God you help, and all ſaints." 18 Edw. III, ſtat. 4.

* Anderſon's Reports, c. 201, p. 155.

CHAP. III Edward the third, about the twentieth year of his reign, acknowledged his own in parliament, and, as well for the eaſe of his conſcience, as the ſatisfaction of his people, promoted an act, "commanding all judges to "do juſtice notwithſtanding any writs, letters, or commands from himſelf, "and forbidding thoſe that belonged to the king, queen, and prince, to "intermeddle in thoſe matters *." But if the beſt and wiſeſt of our princes, in the ſtrength and maturity of their years, had their failings, and every act proceeding from them, that tended to the interruption of juſtice, was a failing, how can it be ſaid, that the king in his perſonal capacity, directly or indirectly, may enter into a diſcuſſion of theſe matters, much leſs determine them according to his will?

"But," ſays our author, "the law is no better than a tyrant; general "pardons at the coronation, and in parliament, are but the bounty of the "prerogative; there may be hard caſes;" and, citing ſome perverted pieces from Ariſtotle's ethics and politics, adds, "that when ſomething "falls out beſides the general rule, then it is fit, that what the law-maker "hath omitted, or where he hath erred by ſpeaking generally, it ſhould "be corrected and ſupplied, as if the law-maker were preſent that "ordained it. The governor, whether he be one man or more, ought "to be lord of theſe things, whereof it was impoſſible that the law ſhould "ſpeak exactly †." Theſe things are in part true; but our author

* "Edward, by the grace of God, &c. Becauſe that by divers complaints made to us "we have perceived, that the law of the land, which we by our oath be bound to maintain, "is the leſs well kept, and the execution of the ſame diſturbed many times by maintenance "and procurement, as well in the court as in the country, we greatly moved of conſcience "in this matter, and for this cauſe deſiring, as much for the pleaſure of God, and eaſe and "quietneſs of our ſubjects, as to ſave our conſcience, and for to ſave and keep our ſaid "oath, by the aſſent of the great men and other wiſe men of our council, we have "ordained theſe things following.

"Firſt, we have commanded all our juſtices, that they ſhall from henceforth do equal "law and execution of right to all our ſubjects, rich and poor, without having regard to "any perſon, and without omitting to do right, for any letters or commandment, which "may come to them from us, or from any other, or by any other cauſe. And if that any "letters, writs, or commandments, come to the juſtices, or to other deputed to do law and "right, according to the uſage of the realm, in diſturbance of the law, or of the execution "of the ſame, or of right to the parties, the juſtices, and other aforeſaid ſhall proceed and "hold their courts and proceſſes, where the pleas and matters be depending before them, as "if no ſuch letters, writs, or commandments were come to them. Item, we have com-"manded and utterly defended, that none of our houſe, nor of them that be about us, nor "other which be towards our dear beloved companion the queen, or our ſon prince of Wales, "or towards our courts, nor prelates, earls, barons nor other great nor ſmall of the land, "of what eſtate or condition they be, ſhall not take in hand quarrels other than their own, "nor the ſame maintain by them, nor by other, privily nor apertly, for gift, promiſe, amity, "favour, doubt, nor fear, nor for none other cauſe, in diſturbance of law, and hinderance "of right, upon the pains aforeſaid, but that every man may be free to ſue for, and defend "his right, in our courts and elſewhere, according to the law." 20 Edw. III, c. 1, 4

† Ὅταν μν λεγῃ μεν ὁ νομος καθολα, συμβῃ δ' επι τυτοις παρα το καθολα, τοτε ορθως εχει, η παραλειπει ὁ νομοθετης, και ημαρτεν ἁπλως ειπων, επανορθυν το ελλειφθεν, ὁ καν ὁ νομοθετης αὐτος αν ειποι, ἐκει παρων. Ariſt. de Morib. l. 5, c. 14. — Τον αρχοντα δε, αν τε εἰς, αν τε πλειυς ωσι, περι τυτων ειναι κυριυς, περι ὁσων ἐξαδυνατυσιν οἱ νομοι λεγειν ακριβως, δια το μη ραδιον ειναι καθολα δηλωσαι περι παντων. Polit. l. 3, c. 11

makes

makes uſe of them, as the devil does of Scripture, to ſubvert the truth. SECT. 22
There may be ſomething of rigour in the law, that in ſome caſes may be mitigated; and the law itſelf, in relation to England, does ſo far acknowledge it, as to refer much to the conſciences of juries, and thoſe who are appointed to aſſiſt them; and the moſt difficult caſes are referred to the parliament as the only judges that are able to determine them. Thus the ſtatute of the 25 Edw. III. enumerating the crimes then declared to be treaſon, leaves to future parliaments to judge what other facts equivalent to them may deſerve the ſame puniſhment *. And it is a general rule in the law, which the judges are ſworn to obſerve, that difficult caſes ſhould be reſerved till the parliament meet, who are only able to decide them: and if there be any inconvenience in this, it is becauſe they do not meet ſo frequently as the law requires, or by ſiniſter means are interrupted in their ſitting. But nothing can be more abſurd than to ſay, that becauſe the king does not call parliaments as the law and his oath requires, that power ſhould accrue to him, which the law and the conſent of the nation has placed in them.

There is alſo ſuch a thing in the law, as a general or particular pardon, and the king may in ſome degree be entruſted with the power of giving it, eſpecially for ſuch crimes as merely relate to himſelf, as every man may remit the injuries done to himſelf; but the confeſſion of Edward the third, "that the oath of the crown had not been kept by reaſon of "the grant of pardons contrary to ſtatutes," and a new act made, "that all ſuch charters of pardon from henceforth granted againſt the "oath of the crown, and the ſaid ſtatutes, ſhould be held for none †," demonſtrate that this power was not in himſelf, but granted by the nation, and to be executed according to ſuch rules as the law preſcribed, and the parliament approved.

Moreover, there have been many, and ſometimes bloody conteſts for the crown, upon which the nation was almoſt equally divided; and it being difficult for them to know, or even for us who have all the parties before us, to judge which was the better ſide, it was underſtood, that he who came to be crowned by the conſent of the people was acceptable to all. And the queſtion being determined, it was no way fit that he ſhould have a liberty to make uſe of the public authority then in his hands, to revenge ſuch perſonal injuries as he had, or might ſuppoſe he had received,

* Vide ſuprà, p. 345

† "Becauſe by divers ſtatutes made before this time, in divers parliaments, it was aſſented, "that no charter of pardon of the death of a man ſhould be granted by the king, but in caſe "where he may do it, keeping the oath of his crown, which ſtatutes have not been holden, "but charters have been granted without number to divers felons and manſlayers, to the "evil example and fear of good people, and lawful, whereby thieves, felons, and offenders "be comforted, to do their robberies and manſlaughter, and the ſame do from day to day, "and the more be encouraged to do the ſame, becauſe of hope eaſily to have their charters "of pardon; it is aſſented, eſtabliſhed, and accorded, that no charter of pardon of the "death of a man, nor of other felony ſhall be from henceforth granted to any man, but in "caſe where the king may the ſame do, ſaving the oath of his crown, as it is contained in "the ſtatutes made before this time; and if any charter be from henceforth granted againſt "the ſaid ſtatutes, the ſame ſhall be holden for none." 14 Edw. III, c. 15

CHAP. III which might raiſe new, and perhaps more dangerous troubles, if the authors of them were ſtill kept in fear of being proſecuted; and nothing could be more unreaſonable, than that he ſhould employ his power to the deſtruction of thoſe who had conſented to make him king. This made it a matter of courſe for a king, as ſoon as he was crowned, to iſſue out a general pardon; which was no more than to declare, that being now what he was not before, he had no enemy upon any former account. For this reaſon Lewis the twelfth of France, when he was incited to revenge himſelf againſt thoſe, who, in the reign of his predeceſſor Charles the eighth, had cauſed him to be impriſoned, with great danger of his life, made this anſwer, "that the king of France did not care to revenge the injuries done to the duke of Orleans *." And the laſt king of Sweden ſeemed no otherwiſe to remember who had oppoſed the queen's abdication and his election than by conferring honours upon them; becauſe he knew they were the beſt men of the nation, and ſuch as would be his friends, when they ſhould ſee how he would govern; in which he was not deceived. But, leſt all thoſe who might come to the crown of England ſhould not have the ſame prudence and generoſity, the kings were obliged by a cuſtom of no leſs force than a law, immediately to put an end to all diſputes, and the inconveniences that might ariſe from them. This did not proceed from the bounty of the prerogative (which I think is nonſenſe, for though he that enjoys the prerogative may have bounty, the prerogative can have none) but from common ſenſe, from the king's obligation, and the care of his own ſafety; and could have no other effect in law, than what related to his perſon, as appears by the fore-mentioned ſtatute.

Pardons granted by act of parliament are of another nature: for as the king, who has no other power than by law, can no otherwiſe diſpenſe with the crimes committed againſt the laws, than the law does enable him, the parliament, that has the power of making laws, may entirely aboliſh the crimes, and unqueſtionably remit the puniſhment as they pleaſe.

Though ſome words of Ariſtotle's ethics are without any coherence ſhuffled together by our author, with others taken out of his politics, I do not much except againſt them. No law made by man can be perfect, and there muſt be in every nation a power of correcting ſuch defects as in time may ariſe or be diſcovered. This power can never be ſo rightly placed as in the ſame hand that has the right of making laws, whether in one perſon or in many. If Filmer therefore can tell us of a place, where one man, woman, or child, however he or ſhe be qualified, has the power of making laws, I will acknowledge, that not only the "hard "caſes," but as many others as he pleaſes, are referred to his or her judgment, and that they may give it, whether they have any underſtanding of what they do or not, whether they be drunk or ſober, in their ſenſes or ſtark-mad. But as I know no ſuch place, and ſhould not be much concerned for the ſuffering of a people that ſhould bring ſuch miſery upon themſelves, as muſt accompany an abſolute dependance upon the

* Un roi de France n' epouſe point les querelles d'un duc d'Orleans. De Serres, en la vie de Louïs XII

unruly

unruly will of ſuch a creature, I may leave him to ſeek it, and reſt in a perfect aſſurance, that he does not ſpeak of England, which acknowledges no other law than its own; and inſtead of receiving any from kings, does, to this day, obey none, but ſuch as have been made by our anceſtors, or ourſelves, and never admitted any king that did not ſwear to obſerve them. And if Ariſtotle deſerve credit, the power of altering, mitigating, explaining, or correcting the laws of England, is only in the parliament, becauſe none but the parliament can make them. SECT. 23

SECTION XXIII

ARISTOTLE PROVES, THAT NO MAN IS TO BE ENTRUSTED WITH AN ABSOLUTE POWER, BY SHEWING, THAT NO ONE KNOWS HOW TO EXECUTE IT, BUT SUCH A MAN AS IS NOT TO BE FOUND.

Our author having falſly cited and perverted the ſenſe of Ariſtotle, now brings him in ſaying, "that a perfect kingdom is that wherein the king "rules all according to his own will *." But though I have read his books of government with ſome attention, I can find no ſuch thing in them, unleſs the word which ſignifies "mere" or "abſolute" may be juſtly tranſlated into "perfect;" which is ſo far from Ariſtotle's meaning, that he diſtinguiſhes the abſolute or deſpotical kingdoms from the legitimate; and commending the latter, gives no better name than that of "barbarous †" to the firſt, which he ſays can agree only with the nature of ſuch nations as are baſe and ſtupid, little differing from beaſts; and having no ſkill to govern, or courage to defend themſelves, muſt reſign all to the will of one that will take care of them. Yet even this cannot be done, unleſs he that ſhould take that care be wholly exempted from the vices which oblige the others to ſtand in need of it; for otherwiſe it is no better than if a ſheep ſhould undertake to govern ſheep, or a hog to command ſwine; Ariſtotle plainly ſaying, "that as men are by nature "equal, if it were poſſible, all ſhould be magiſtrates." But that being repugnant to the nature of government, he finds no other way of ſolving the difficulty, than by "obeying and commanding alternately;" that they may do by turns that which they cannot do all together, and to which no one man has more right than an other, becauſe they are all by nature equal ‡. This might be compoſed by a more compendious way,

* Περι δε της ΠΑΜΒΑΣΙΛΕΙΑΣ καλεμενης, αυτη δ' εςι καθ' ην αρχει παντων, κατα την ἑαυτε βυλησιν, ὁ βασιλευς. Ariſt. Polit. l. 3, c. 16

† Αλλο μοναρχιας ειδος, οἱαι παρ' ενιοις εισι βασιλειαι των βαρβαρων, etc. Ibid. l. 3, c. 14. l. 4, c. 10

‡ Δηλον ὡς τὸν αυτὸν αει βελτιον αρχειν, ει δυνατον· εν οἱς δε μη δυνατον (δια το την φυσιν ισους εἰναι παντας· ἁμα δε και δικαιον (ειτ' αγαθον ειτε φαυλον το αρχειν) παντας αυτὸ μετεχειν, εν τουτοις δε μιμεισθαι το εν μερει τους ισους εἰκειν ομοιως τοις εξ αρχης· οἱ μεν γαρ αρχουσιν, οἱ δ' αρχονται παρα μερος, ὡσπερ αν αλλαι γενομενοι. Ibid. l. 2, c. 2. l. 3, c. 16.

CHAP. III if, according to our author's doctrine, poſſeſſion could give a right. But Ariſtotle, ſpeaking like a philoſopher, and not like a public enemy to mankind, examines what is juſt, reaſonable, and beneficial to men, that is, what ought to be done, and which being done, is to be accounted juſt, and therefore to be ſupported by good men. But as "that which is unjuſt "in the beginning can never have the effect of juſtice *;" and it being manifeſtly unjuſt for one, or a few men, to aſſume a power over thoſe who by nature are equal to them, no ſuch power can be juſt or beneficial to mankind; nor fit to be upheld by good men, if it be unjuſt and prejudicial. In the opinion of Ariſtotle, this natural equality continues till virtue makes the diſtinction, which muſt be either ſimply complete and perfect in itſelf, ſo that he who is endued with it, is a God among men †, or relatively, as far as concerns civil ſociety, and the ends for which it is conſtituted, that is, defence, and the obtaining of juſtice. This requires a mind unbiaſſed by paſſion, full of goodneſs and wiſdom, firm againſt all the temptations to ill, that may ariſe from deſire or fear, tending to all manner of good, through a perfect knowledge and affection to it; and this to ſuch a degree, that he or they have more of theſe virtues and excellencies than all the reſt of the ſociety, though computed together. Where ſuch a man is found, he is by nature a king, and it is beſt for the nation where he is, that he govern ‡. If a few men, though equal and alike among themſelves, have the ſame advantages above the reſt of the people, nature, for the ſame reaſon, ſeems to eſtabliſh an ariſtocracy in that place; and the power is more ſafely committed to them, than left in the hands of the multitude. But if this excellency of virtue do not appear in one, nor in a few men, the right and power is by nature equally lodged in all; and to aſſume or appropriate that power to one, or a few men, is unnatural and tyrannical, which, in Ariſtotle's language, comprehends all that is deteſtable and abominable.

If any man ſhould think Ariſtotle a trifler, for ſpeaking of ſuch a man as can never be found §, I anſwer, that he went as far as his way could be warranted by reaſon or nature, and was obliged to ſtop there by the defect of his ſubject. He could not ſay, that the government of one was ſimply good, when he knew ſo many qualifications were required in the perſon to make it ſo; nor, that it is good for a nation to be under the power of a fool, a coward, or a villain, becauſe it is good to be under a

* Quod ab initio injuſtum eſt nullum poteſt habere juris effectum. Grot. de Jure Belli. * *

† Ὡσπερ θεον εν ανθρωποις εικος ειναι τον τοιουτον. Ariſt. Polit. l. 3, c. 13

‡ Λειπεται τοινυν, ὁπερ εοικε πεφυκεναι, πειθεσθαι τῳ τοιουτῳ παντας ασμενως· ὡστε βασιλεας ειναι τας τοιουτας αἰδιους εν ταις πολεσιν. Ibid. l. 3, c. 13, 17, etc.

§ Barbeyrac, in his notes on Puffendorf, makes the following remark. "The qualifications which Ariſtotle requires in an abſolute monarch are very rare, and this gives room to "Sidney, in his Diſcourſes concerning government, to maintain, that Ariſtotle ſuppoſes a "man who is not to be found in the world, in order to inſinuate, that no man is to be "truſted with abſolute power. But perhaps that philoſopher never conceived any idea of a "perfect virtue; and, ſuppoſing men to be as they really are, deſigned only to exclude thoſe "vices, which denominate a tyrant." b. 7, c. 6, § 5, note 1

man

man of admirable wiſdom, valour, induſtry, and goodneſs; or that the SECT. 24
government of one ſhould be continued in ſuch as by chance ſucceed in a family, becauſe it was given to the firſt who had all the virtues required, though all the reaſons for which the power was given fail in the ſucceſſor: much leſs could he ſay, that any government was good, which was not good for thoſe whoſe good only it was conſtituted to promote.

Moreover, by ſhewing who only is fit to be a monarch, or may be made ſuch, without violating the laws of nature and juſtice, he ſhews who cannot be one. And he who ſays, that no ſuch man is to be found, as, according to the opinion of Ariſtotle, can be a monarch, does moſt ridiculouſly allege his authority in favour of monarchs, or the power which ſome among us would attribute to them. If any thing therefore may be concluded from his words, it is this; that ſince no power ought to be admitted which is not juſt; that none can be juſt, which is not good, profitable to the people, and conducing to the ends for which it is conſtituted; that no man can know how to direct the power to thoſe ends, can deſerve, or adminiſter it, unleſs he do ſo far excel all thoſe that are under him in wiſdom, juſtice, valour, and goodneſs, as to poſſeſs more of thoſe virtues than all of them: I ſay, if no ſuch man, or ſucceſſion of men be found, no ſuch power is to be granted to any man, or ſucceſſion of men. But if ſuch power be granted, the laws of nature and reaſon are overthrown, and the ends for which ſocieties are conſtituted utterly perverted, which neceſſarily implies an annihilation of the grant. And if a grant, ſo made by thoſe who have a right of ſetting up a government among themſelves, do periſh through its own natural iniquity and perverſity, I leave it to any man, whoſe underſtanding and manners are not ſo entirely corrupted as thoſe of our author, to determine what name ought to be given to that perſon, who, not excelling all others in civil and moral virtues, in the proportion required by Ariſtotle, does uſurp a power over a nation, and what obedience the people owe to ſuch a one. But if his opinion deſerve our regard, the king, by having thoſe virtues, is "omnium optimus," and the beſt guide to the people, to lead them to happineſs by the ways of virtue. And he who aſſumes the ſame power, without the qualifications required, is "tyrannus omnium peſſimus," leading the people to all manner of ill, and, in conſequence, to deſtruction.

SECTION XXIV

THE POWER OF AUGUSTUS CAESAR WAS NOT GIVEN, BUT USURPED.

Our author's next inſtance is ingeniouſly taken from the Romans, "who," he ſays, "though they were a people greedy of liberty, freed Auguſtus "from the neceſſity of laws." If it be true, as he affirms, that ſuch a prerogative is inſtituted only for the preſervation of liberty, they who are

CHAP. III

moſt greedy of it ought to be moſt forward in eſtabliſhing that which defends it beſt. But if the weight laid upon the words "greedy of liberty, &c." render his memory and judgment liable to cenſure, the unpardonable prevarication of citing any act done by the Romans in the time of Auguſtus, as done freely, ſhews him to be a man of no faith. "Omnium "jura in ſe traxerat *," ſays Tacitus of Auguſtus; nothing was conferred upon him, he took all to himſelf; there could be nothing of right in that which was wholly uſurped. And neither the people nor the ſenate could do any thing freely, while they were under the power of a mad corrupted ſoldiery, who firſt betrayed, and then ſubdued them. The greateſt part of the ſenate had fallen at the battle of Pharſalia, others had been gleaned up in ſeveral places, the reſt deſtroyed by the proſcriptions; and that which then retained the name of a ſenate was made up chiefly of thoſe who had been his miniſters, in bringing the moſt miſerable ſlavery upon their own country. The Roman liberty, and that bravery of ſpirit by which it had been maintained, was not only aboliſhed, but almoſt forgotten. All conſideration of law and right was trampled under foot; and none could diſpute with him, who by the power of the ſword had ſeized the authority both of the ſenate and people. Nothing was ſo extravagant, that might not be extorted by the inſolent violence of a conqueror, who had thirty mercenary legions to execute his commands. The uncorrupted part of the people, that had eſcaped the ſword of Julius, had either periſhed with Hirtius and Panſa, Brutus and Caſſius, or been deſtroyed by the deteſtable triumvirate. Thoſe that remained could loſe nothing by a verbal reſignation of their liberty, which they had neither ſtrength nor courage to defend. The magiſtracies were poſſeſſed by the creatures of the tyrant; and the people were compoſed of ſuch as were either born under ſlavery, and accuſtomed to obey, or remained under the terror of thoſe arms that had conſumed the aſſertors of their liberty. Our author, ſtanding in need of ſome Roman example, was obliged to ſeek it in an age, when the laws were ſubverted, virtue extinguiſhed, injuſtice placed in the throne, and ſuch as would not be of the ſame ſpirit expoſed to the utmoſt cruelty. This was the time when the ſovereign majeſty ſhined in glory; and they who had raiſed it above the law made it alſo the object of their religion, by adoring the ſtatues of their oppreſſor. The corruption of this court ſpread itſelf over the beſt part of the world; and reduced the empire to that irrecoverable weakneſs in which it languiſhed and periſhed. This is the ſtate of things that pleaſes Filmer, and thoſe that are like him, who, for the introduction of the ſame among us, recommend ſuch an elevation of the ſovereign majeſty, as is moſt contrary to the laws of God and men, abhorred by all generous nations, and eſpecially by our anceſtors, who thought nothing too dear to be hazarded in the defence of themſelves and us from it.

* Munia ſenatûs, magiſtratuum, legum in ſe trahere. Tacit. Annal. l. 1, § 2

SECTION XXV

THE REGAL POWER WAS NOT THE FIRST IN THIS NATION; NOR NECESSARILY TO BE CONTINUED, THOUGH IT HAD BEEN THE FIRST.

Truth being uniform in itſelf, thoſe who deſire to propagate it for the good of mankind lay the foundations of their reaſonings in ſuch principles, as are either evident to common ſenſe, or eaſily proved: but cheats and impoſtors, delighting in obſcurity, ſuppoſe things that are dubious or falſe, and think to build one falſhood upon another; and our author can find no better way to perſuade us, that all our privileges and laws are from the king, than by ſaying, "that the firſt power was the kingly power, "which was both in this and in all other nations of the world long before "any laws, or any other kind of government was thought of; from "whence we muſt neceſſarily infer, that the common law, or common "cuſtoms of this land, were originally the laws and commands of the "king." But denying both theſe points, I affirm,

1. Firſt, that there was a power to make kings before there was any king.

2. Though kings had been the firſt created magiſtrates in all places, as perhaps they were in ſome, it does not follow, that they muſt continue for ever, or that laws are from them.

To the firſt. I think no man will deny, that there was a people at Babylon, before Nimrod was king of that place. This people had a power; for no number of men can be without it: nay this people had a power of making Nimrod king, or he could never have been king. He could not be king by ſucceſſion, for the Scripture ſhews him to have been the firſt. He was not king by the right of father, for he was not their father, Cuſh, Ham, with his elder brothers, and father Noah, being ſtill living; and, which is worſt of all, were not kings: for if they who lived in Nimrod's time, or before him, neither were kings, nor had kings, he that ought to have been king over all by the right of nature (if there had been any ſuch thing in nature) was not king. Thoſe who immediately ſucceeded him, and muſt have inherited his right, if he had any, did not inherit, or pretend to it: and therefore he that ſhall now claim a right from nature, as father of a people, muſt ground it upon ſomething more certain than Noah's right of reigning over his children, or it can have no ſtrength in it.

Moreover, the nations who in and before the time of Nimrod had no kings, had power, or elſe they could have performed no act, nor conſtituted any other magiſtrate, to this day, which is abſurd. There was therefore a power in nations before there were kings, or there could never have been any; and Nimrod could never have been king, if the people of Babylon had not made him king, which they could not have done if

CHAP. III. they had not a power of making him ſo. It is ridiculous to ſay he made himſelf king; for though he might be ſtrong and valiant, he could not be ſtronger than a multitude of men. That which forces muſt be ſtronger than that which is forced; and if it be true, according to the antient ſaying, that Hercules himſelf is not ſufficient to encounter two, it is ſure more impoſſible for one man to force a multitude, for that muſt be ſtronger than he. If he came in by perſuaſion, they who were perſuaded, were perſuaded to conſent, that he ſhould be king. That conſent therefore made him king. But, "qui dat eſſe, dat modum eſſe:" they who made him king, made him ſuch a king as beſt pleaſed themſelves. He had therefore nothing but what was given: his greatneſs and power muſt be from the multitude who gave it: and their laws and liberties could not be from him; but their liberties were naturally inherent in themſelves, and their laws were the product of them.

There was a people that made Romulus king. He did not make or beget that people, nor, for any thing we know, one man of them. He could not come in by inheritance, for he was a baſtard, the ſon of an unknown man; and when he died, the right that had been conferred upon him reverted to the people, who, according to that right, choſe Numa, Hoſtilius, Martius, Tarquinius Priſcus, and Servius, all ſtrangers, and without any other right than what was beſtowed upon them; and Tarquinius Superbus, who invaded the throne "without the command of the "people *," was ejected, and the government of kings aboliſhed, by the ſame power that had created it.

We know not certainly by what law Moſes, and the judges, created by the advice of Jethro, governed the Iſraelites; but may probably conjecture it to have been by that law which God had written in the hearts of mankind; and the people ſubmitted to the judgment of good and wiſe men, though they were under no coercive power: but it is certain they had a law, and a regular magiſtracy, under which they lived, four hundred years before they had a king, for Saul was the firſt. This law was not therefore from the king, nor by the king; but the king was choſen and made by the people, according to the liberty they had by the law, though they did not rightly follow the rules therein preſcribed, and by that means brought deſtruction upon themſelves.

The country in which we live lay long concealed under obſcure barbarity, and we know nothing of the firſt inhabitants, but what is involved in fables, that leave us ſtill in the dark. Julius Caeſar is the firſt who ſpeaks diſtinctly of our affairs, and gives us no reaſon to believe there was any monarchy then eſtabliſhed among us. Caſſivellaunus was occaſionally choſen by the nations that were moſt expoſed to the violence of the Romans, for the management of thoſe wars againſt them †. By others we hear of Boadicia, Arviragus, Galgacus, and many more ſet up afterwards, when

* Sine juſſu populi. Liv. l. 1, c. 49

† Summa imperii bellique adminiſtrandi, communi conſilio, permiſſa eſt Caſſivellauno. Caeſ. Comment. l. 5, § 9

need

need required; but we find no footſteps of a regular ſucceſſion either by inheritance or election. And as they had then no kings, or any other general magiſtrate, that can be ſaid to be equivalent to a king, they might have had none at all, unleſs they had thought fit. Tacitus mentions a ſort of kings, uſed by the Romans to keep nations in ſervitude to them*; and though it were true, that there had been ſuch a man as Lucius, and he one of this ſort, he is to be accounted only as a Roman magiſtrate, and ſignifies no more to our diſpute, than if he had been called proconſul, praetor, or by any other name. However there was no ſeries of them: that which was temporary and occaſional depended upon the will of thoſe, who, thinking there was occaſion, created ſuch a magiſtrate, and omitted to do ſo, when the occaſion ceaſed, or was thought to ceaſe; and might have had none at all, if they had ſo pleaſed. The magiſtracy therefore was from them, and depended upon their will. SECT. 25

We have already mentioned the hiſtories of the Saxons, Danes, and Normans, from which nations, together with the Britains, we are deſcended, and, finding that they were ſevere aſſertors of their liberties, acknowledged no human laws but their own, received no kings, but ſuch as ſwore to obſerve them, and depoſed thoſe who did not well perform their oaths and duty, it is evident, that their kings were made by the people according to the law; and that the law, by which they became what they were, could not be from themſelves. Our anceſtors were ſo fully convinced, that in the creation of kings they exerciſed their own right, and were only to conſider what was good for themſelves, that without regard to the memory of thoſe who had gone before, they were accuſtomed to take ſuch as ſeemed moſt like, wiſely, juſtly and gently to perform their office; refuſed thoſe that were ſuſpected of pride, cruelty, or any other vice that might bring prejudice upon the public, what title ſoever they pretended; and removed ſuch as had been placed in the throne, if they did not anſwer the opinion conceived of their virtue: which I take to be a manner of proceeding that agrees better with the quality of maſters, making laws and magiſtrates for themſelves, than of ſlaves receiving ſuch as were impoſed upon them.

2. To the ſecond. Though it ſhould be granted, that all nations had at the firſt been governed by kings, it were nothing to the queſtion; for no man, or number of men, was ever obliged to continue in the errors of his predeceſſors. The authority of cuſtom, as well as of law (I mean in relation to the power that made it to be) conſiſts only in its rectitude; and the ſame reaſon which may have induced one or more nations to create kings, when they knew no other form of government, may not only induce them to ſet up another, if that be found inconvenient to them, but proves, that they may as juſtly do ſo, as remove a man who performs not what was expected from him. If there had been a rule given by God, and written in the minds of men by nature, it muſt have been from the

* Ut haberet inſtrumenta ſervitutis et reges. Tacit. in vitâ Agric. § 14. Vide ſuprà, p. 276

CHAP. III beginning, univerſal and perpetual; or at leaſt muſt have been obſerved by the wiſeſt and beſt inſtructed nations: which not being in any meaſure (as I have proved already) there can be no reaſon, why a polite people ſhould not relinquiſh the errors committed by their anceſtors in the time of their barbariſm and ignorance, and why they ſhould not do it in matters of government, as well as in any other thing relating to life. Men are ſubject to errors, and it is the work of the beſt and wiſeſt to diſcover and amend ſuch as their anceſtors may have committed, or to add perfection to thoſe things which by them have been well invented. This is ſo certain, that whatever we enjoy, beyond the miſery in which our barbarous anceſtors lived, is due only to the liberty of correcting what was amiſs in their practice, or inventing that which they did not know. And I doubt whether it be more brutiſh to ſay, we are obliged to continue in the idolatry of the druids, with all the miſeries and follies that accompany the moſt ſavage barbarity, or to confeſs, that though we have a right to depart from theſe, yet we are for ever bound to continue the government they had eſtabliſhed, whatever inconveniencies might attend it. Tertullian, diſputing with the pagans, who objected the novelty of the chriſtian religion, troubled not himſelf with refuting that error; but proving Chriſtianity to be good and true, he thought he had ſufficiently proved it to be antient*. A wiſe architect may ſhew his ſkill, and deſerve commendation for building a poor houſe of vile materials, when he can procure no better, but he no way ought to hinder others from erecting more glorious fabrics, if they are furniſhed with the means required. Beſides, ſuch is the imperfection of all human conſtitutions, that they are ſubject to perpetual fluctuation, which never permits them to continue long in the ſame condition. Corruptions ſlide in inſenſibly, and the beſt orders are ſometimes ſubverted by malice and violence. So that he, who only regards what was done in ſuch an age, often takes the corruption of the ſtate for the inſtitution, follows the worſt example, thinks that to be the firſt, that is the moſt antient he knows. And if a brave people, ſeeing the original defects of their government, or the corruption into which it may be fallen, do either correct and reform what may be amended, or aboliſh that which was evil in the inſtitution, or ſo perverted, that it cannot be reſtored to integrity, theſe men impute it to ſedition, and blame thoſe actions, which, of all that can be performed by men, are the moſt glorious. We are not therefore ſo much to inquire after that which is moſt antient, as that which is beſt, and moſt conducing to the good ends to which it was directed. As governments were inſtituted for the obtaining of juſtice, and (as our author ſays) the preſervation of liberty, we are not to ſeek what government was the firſt, but what beſt provides for the obtaining of juſtice, and the preſervation of liberty. For whatever the inſtitution be, and how long ſoever it may have laſted, it is void, if it thwarts, or does not provide for the ends of its eſtabliſhment. If ſuch a law or cuſtom therefore, as is not good in

* Nullum tempus, nulla praeſcriptio, occurrit veritati. Tertul. * * * Id antiquius quod verius. Ibid. * * * Vide Apol. § 20, et tract. de Virg. veland. § 1

itſelf,

itſelf, had in the beginning prevailed in all parts of the world (which in relation to abſolute, or any kind of monarchy, is not true) it ought to be aboliſhed; and if any man ſhould ſhew himſelf wiſer than others by propoſing a law or government, more beneficial to mankind than any that had been formerly known, providing better for juſtice and liberty than all others had done, he would merit the higheſt veneration. If any man aſk, who ſhall be judge of that rectitude or pravity which either authorizes or deſtroys a law? I anſwer, that as this conſiſts not in formalities and niceties, but in evident and ſubſtantial truths, there is no need of any other tribunal than that of common ſenſe, and the light of nature, to determine the matter: and he that travels through France, Italy, Turky, Germany, and Switzerland, without conſulting Bartolus or Baldus, will eaſily underſtand whether the countries that are under the kings of France and Spain, the pope and the great Turk, or ſuch as are under the care of a well-regulated magiſtracy, do beſt enjoy the benefits of juſtice and liberty. It is as eaſily determined, whether the Grecians, when Athens and Thebes flouriſhed, were more free than the Medes; whether juſtice was better adminiſtred by Agathocles, Dionyſius, and Phalaris, than by the legal kings and regular magiſtrates of Sparta; or whether more care was taken, that juſtice and liberty might be preſerved by Tiberius, Caligula, Claudius, Nero, and Vitellius, than by the ſenate and people of Rome, while the laws were more powerful than the commands of men. The like may be ſaid of particular laws, as thoſe of Nabuchodonoſor and Caligula, for worſhipping their ſtatutes; our acts of parliament againſt heretics and Lollards, with the ſtatutes and orders of the inquiſition, which is called the holy office. And if that only be a law which is "ſanctio recta, jubens honeſta, prohibens contraria," the meaneſt underſtanding, if free from paſſion, may certainly know, that ſuch as theſe cannot be laws, by what authority ſoever they were enacted, and that the uſe of them, and others like to them, ought to be aboliſhed for their turpitude and iniquity. Infinite examples of the like nature might be alleged, as well concerning divine as human things. And if there be any laws which are evil, there cannot be an inconteſtable rectitude in all, and if not in all, it concerns us to examine where it is to be found. Laws and conſtitutions ought to be weighed; and whilſt all due reverence is paid to ſuch as are good, every nation may not only retain in itſelf a power of changing or aboliſhing all ſuch as are not ſo, but ought to exerciſe that power according to the beſt of their underſtanding, and in the place of what was either at firſt miſtaken or afterwards corrupted, to conſtitute that which is moſt conducing to the eſtabliſhment of juſtice and liberty. SECT. 25

But ſuch is the condition of mankind, that nothing can be ſo perfectly framed as not to give ſome teſtimony of human imbecillity, and frequently to ſtand in need of reparations and amendments. Many things are unknown to the wiſeſt, and the beſt men can never wholly diveſt themſelves of paſſions and affections. By this means the beſt and wiſeſt are ſometimes led into error, and ſtand in need of ſucceſſors like to themſelves,

CHAP. III ſelves, who may find remedies for the faults they have committed, and nothing can or ought to be permanent, but that which is perfect. No natural body was ever ſo well tempered and organized, as not to be ſubject to diſeaſes, wounds, or other accidents, and to need medicines, and other occaſional helps, as well as nouriſhment and exerciſe; and he who, under the name of innovation, would deprive nations of the like, does, as much as lies in him, condemn them all to periſh by the defects of their own foundations. Some men obſerving this, have propoſed a neceſſity of reducing every ſtate, once in an age or two, to the integrity of its firſt principle *: but they ought to have examined, whether that principle be good or evil, or ſo good, that nothing can be added to it, which none ever was; and this being ſo, thoſe who will admit of no change would render errors perpetual, and depriving mankind of the benefits of wiſdom, induſtry, experience, and the right uſe of reaſon, oblige all to continue in the miſerable barbarity of their anceſtors: which ſuits better with the nature of a wolf than that of a man.

Thoſe who are of better underſtanding weigh all things, and often find reaſon to abrogate that which their fathers, according to the meaſure of the knowledge they had, or the ſtate of things among them, had rightly inſtituted, or to reſtore that which they had abrogated; and there can be no greater mark of a moſt brutiſh ſtupidity, than for men to continue in an evil way, becauſe their fathers had brought them into it. But if we ought not too ſtrictly to adhere to our own conſtitutions, thoſe of other nations are leſs to be regarded by us; for the laws that may be good for one people are not for all, and that which agrees with the manners of one age is utterly abhorrent from thoſe of another. It were abſurd to think of reſtoring the laws of Lycurgus to the preſent inhabitants of Peloponneſus, who are accuſtomed to the moſt abject ſlavery. It may eaſily be imagined, how the Romans, Sabines, and Latins, now under the tyranny of the pope, would reliſh ſuch a diſcipline as flouriſhed among them after the expulſion of the Tarquins; and it had been no leſs prepoſterous to give a liberty to the Parthians of governing themſelves, or for them to aſſume it, than to impoſe an abſolute monarch upon the German nation. Titus Livius, having obſerved this, ſays, that if a popular government had been ſet up in Rome immediately upon the building of the city; and if that fierce people, which was compoſed of unruly ſhepherds, herdſmen, fugitive ſlaves, and outlawed perſons, who could not ſuffer the governments under which they were born, had come to be incited by turbulent orators, they would have brought all into confuſion †. Whereas that boiſterous humour being gradually tempered by diſcipline under Romulus, or taught to vent its fury againſt foreign enemies, and ſoftened by the

* Machiav. Diſcors. l. 3, c. 1

† Quid futurum fuit, ſi illa paſtorum convenarumque plebs transfuga ex ſuis populis, ſub tutelâ inviolati templi, aut libertatem, aut certè impunitatem adepta, ſoluta regio metu, agitari coepta eſſet tribunitiis procellis? . . . . Diſſipatae res nondum adultae diſcordiâ forent, &c. Liv, l. 2, c. 1

peaceable

peaceable reign of Numa, a new race grew up, which, being all of one blood, contracted a love to their country, and became capable of liberty, which the madneſs of their laſt king, and the lewdneſs of his ſon, gave them occaſion to reſume. If this was commendable in them, it muſt be ſo in other nations. If the Germans might preſerve their liberty, as well as the Parthians ſubmit themſelves to abſolute monarchy, it is as lawful for the deſcendants of thoſe Germans to continue in it, as for the eaſtern nations to be ſlaves. If one nation may juſtly chooſe the government that ſeems beſt to them, and continue or alter it according to the changes of times and things, the ſame right muſt belong to others. The great variety of laws that are or have been in the world proceeds from this; and nothing can better ſhew the wiſdom and virtue, or the vices and folly of nations, than the uſe they make of this right: they have been glorious or infamous, powerful or deſpicable, happy or miſerable, as they have well or ill executed it. SECT. 25.

If it be ſaid, that the law given by God to the Hebrews, proceeding from his wiſdom and goodneſs, muſt needs be perfect and obligatory to all nations, I anſwer, that there is a ſimple and a relative perfection. The firſt is only in God, the other in the things he has created: "he ſaw that they were good;" which can ſignify no more than that they were good in their kind, and ſuited to the end for which he deſigned them. For if the perfection were abſolute, there could be no difference between an angel and a worm, and nothing could be ſubject to change or death; for that is imperfection. This relative perfection is ſeen alſo by his law given to mankind in the perſons of Adam and Noah. It was good in the kind, fit for thoſe times; but could never have been enlarged or altered, if the perfection had been ſimple; and no better evidence can be given to ſhew, that it was not ſo, than that God did afterwards give one much more full and explicit to his people. This law alſo was peculiarly applicable to that people and ſeaſon; for, if it had been otherwiſe, the apoſtles would have obliged Chriſtians to the entire obſervation of it, as well as to abſtain from idolatry, fornication, and blood. But if all this be not ſo, then their judicial law, and the form of their commonwealth, muſt be received by all; no human law can be of any value; we are all brethren; no man has a prerogative above another; lands muſt be equally divided among all; inheritances cannot be alienated for above fifty years; no man can be raiſed above the reſt, unleſs he be called by God, and enabled by his Spirit to conduct the people; when this man dies, he that has the ſame Spirit muſt ſucceed, as Joſhua did to Moſes, and his children can have no title to his office; when ſuch a man appears, a ſanhedrim of ſeventy men, choſen out of the whole people, are to judge ſuch cauſes as relate to themſelves, while thoſe of greater extent and importance are referred to the general aſſemblies. Here is no mention of a king; and conſequently, if we muſt take this law for our pattern, we cannot have one. If the point be driven to the utmoſt, and the precept of Deuteronomy, where God permitted them to have a king, if they thought fit, when they came into

CHAP. III into the promiſed land, be underſtood to extend to all nations, every one of them muſt have the ſame liberty of taking their own time, chooſing him in their own way, dividing the kingdom, having no king, and ſetting up other governors when they pleaſe, as before the election of Saul, and after the return from the captivity: and even when they have a king, he muſt be ſuch a one as is deſcribed in the ſame chapter, who no more reſembles the ſovereign majeſty that our author adores, and agrees as little with his maxims, as a tribune of the Roman people.

We may therefore conclude, that if we are to follow the law of Moſes, we muſt take it with all the appendages; a king can be no more, and no otherwiſe, than he makes him: for whatever we read of the kings they had, were extreme deviations from it. No nation can make any law; and our lawyers, burning their books, may betake themſelves to the ſtudy of the pentateuch; in which though ſome of them may be well verſed, yet probably the profit ariſing from thence will not be very great.

But, if we are not obliged to live in a conformity to the law of Moſes, every people may frame laws for themſelves, and we cannot be denied the right that is common to all. Our laws were not ſent from heaven, but made by our anceſtors according to the light they had, and their preſent occaſions. We inherit the ſame right from them, and, as we may without vanity ſay, that we know a little more than they did, if we find ourſelves prejudiced by any law that they made, we may repeal it. The ſafety of the people was their ſupreme law, and is ſo to us: neither can we be thought leſs fit to judge what conduces to that end, than they were. If they in any age had been perſuaded to put themſelves under the power, or, in our author's phraſe, under the ſovereign majeſty, of a child, a fool, a mad or deſperately wicked perſon, and had annexed the right conferred upon him, to ſuch as ſhould ſucceed, it had not been a "juſt and right "ſanction;" and, having none of the qualities eſſentially belonging to a law, could not have the effect of a law. It cannot be for the good of a people to be governed by one, who by nature ought to be governed, or by age or accident is rendered unable to govern himſelf. The public intereſts, and the concernments of private men in their lands, goods, liberties, and lives (for the preſervation of which, our author ſays, that regal prerogative is only conſtituted) cannot be preſerved by one who is tranſported by his own paſſions or follies, a ſlave to his luſts and vices; or, which is ſometimes worſe, governed by the vileſt of men and women, who flatter him in them, and puſh him on to do ſuch things as even they would abhor, if they were in his place. The turpitude and impious madneſs of ſuch an act muſt neceſſarily make it void, by overthrowing the ends for which it was made, ſince that juſtice which was ſought cannot be obtained, nor the evils that were feared, prevented; and they for whoſe good it was intended muſt neceſſarily have a right of aboliſhing it. This might be ſufficient for us, though our anceſtors had enſlaved themſelves. But, God be thanked, we are not put to that trouble: we have no reaſon to believe we are deſcended from ſuch fools and beaſts, as would willingly

willingly caſt themſelves, and us, into ſuch an exceſs of miſery and ſhame, SECT. 26
or that they were ſo tame and cowardly as to be ſubjected by force or fear. We know the value they ſet upon their liberties, and the courage with which they defended them: and we can have no better example to encourage us never to ſuffer them to be violated or diminiſhed.

SECTION XXVI

THOUGH THE KING MAY BE ENTRUSTED WITH THE POWER OF CHOOSING JUDGES, YET THAT BY WHICH THEY ACT IS FROM THE LAW.

I confeſs, that no laws can be ſo perfect, as "to provide exactly for every "caſe that may fall out, ſo as to leave nothing to the diſcretion of the "judges," who in ſome meaſure are to interpret them: but "that laws "or cuſtoms are ever few, or that the paucity is the reaſon that they can-"not give ſpecial rules, or that judges do reſort to thoſe principles, or "common-law axioms, whereupon former judgments, in caſes ſome-"thing alike, have been given by former judges, who all receive their "authority from the king in his right to give ſentence," I utterly deny; and affirm,

1. That in many places, and particularly in England, the laws are ſo many, that the number of them has introduced an uncertainty and confuſion, which is both dangerous and troubleſome; and the infinite variety of adjudged caſes, thwarting and contradicting each other, has rendered theſe difficulties inextricable. Tacitus imputes a great part of the miſeries ſuffered by the Romans in his time to this abuſe, and tells us, that "the "laws grew to be innumerable in the worſt and moſt corrupt ſtate of "things*," and that juſtice was overthrown by them. By the ſame means in France, Italy, and other places, where the civil law is rendered municipal, judgments are in a manner arbitrary; and though the intention of our laws be juſt and good, they are ſo numerous, and the volumes of our ſtatutes, with the interpretations, and adjudged caſes, ſo vaſt, that hardly any thing is ſo clear and fixed, but men of wit and learning may find what will ſerve for a pretence to juſtify almoſt any judgment they have a mind to give. Whereas the laws of Moſes, as to the judicial part, being ſhort and few, judgments were eaſy and certain. And in Switzerland, Sweden, and ſome parts of Denmark, the whole volume that contains them may be read in few hours, and by that means no injuſtice can be done which is not immediately made evident.

2. Axioms are not rightly grounded upon judged caſes; but caſes are to be judged according to axioms: the certain is not proved by the uncertain, but the uncertain by the certain; and every thing is to be eſteemed

* Corruptiſſimâ republicâ plurimae leges. Tacit. Annal. l. 3, § 27

CHAP. III uncertain, till it be proved to be certain. Axioms in law are, as in mathematics, evident to common ſenſe; and nothing is to be taken for an axiom, that is not ſo. Euclid does not prove his axioms by his propoſitions, but his propoſitions, which are abſtruſe, by ſuch axioms as are evident to all. The axioms of our law do not receive their authority from Coke or Hales, but Coke and Hales deſerve praiſe for giving judgment according to ſuch as are undeniably true.

3. The judges receive their commiſſions from the king; and perhaps it may be ſaid, that the cuſtom of naming them is grounded upon a right with which he is entruſted; but their power is from the law, as that of the king alſo is. For he who has none originally in himſelf, can give none, unleſs it be firſt conferred upon him. I know not how he can well perform his oath to govern according to law, unleſs he execute the power with which he is entruſted, in naming thoſe men to be judges, whom in his conſcience, and by the advice of his council, he thinks the beſt and ableſt to perform that office: but both he and they are to learn their duty from that law, by which they are, and which allots to every one his proper work. As the law intends, that men ſhould be made judges for their integrity and knowledge in the law, and that it ought not to be imagined, that the king will break his truſt by chooſing ſuch as are not ſo, till the violation be evident, nothing is more reaſonable than to intend, that the judges ſo qualified ſhould inſtruct the king in matters of law. But that he who may be a child, over-aged, or otherwiſe ignorant and incapable, ſhould inſtruct the judges, is equally abſurd, as for a blind man to be a guide to thoſe who have the beſt eyes; and ſo abhorrent from the meaning of the law, that the judges, as I ſaid before, are ſworn to do juſtice according to the laws, without any regard to the king's words, letters, or commands. If they are therefore to act according to a ſet rule, from which they may not depart, what command ſoever they receive, they do not act by a power from him, but by one that is above both. This is commonly confeſſed; and though ſome judges have been found in ſeveral ages, who, in hopes of reward and preferment, have made little account of their oath, yet the ſucceſs that many of them have had, may reaſonably deter others from following their example; and if there are not more inſtances of this kind, no better reaſon can be given, than that nations do frequently fail, by being too remiſs in aſſerting their own rights, or puniſhing offenders *, and hardly ever err on the ſeverer ſide.

4. Judgments are variouſly given in ſeveral ſtates and kingdoms; but he, who would find one where they lie in the breaſt of the king, muſt go at leaſt as far as Morocco. Nay, the ambaſſador who was lately here from that place denied, that they were abſolutely in him. However, it is certain, that in England, according to the great charter, judgments are paſſed by equals: "no man can be impriſoned, diſſeiſed of his freehold,

* Jure igitur plectimur; niſi enim multorum impunita ſcelera tuliſſemus, nunquam ad unum tanta perveniſſet licentia. Cic. de Offic. l. 2, § 28

"deprived

" deprived of life or limb, unleſs by the ſentence of his peers *." SECT. 26
The kings of Judah " judged and were judged;" and the judgments they gave, were in and with the ſanhedrim †. In England the kings do not judge, but are judged: and Bracton ſays, " that in receiving juſtice " the king is equal to another man ‡;" which could not be, if judgments were given by him, and he were exempted from the judgment of all by that law, which has put all judgments into the hands of the people. This power is executed by them in grand or petty juries, and the judges are aſſiſtants to them, in explaining the difficult points of the law, in which, it is preſumed, they ſhould be learned. The ſtrength of every judgment conſiſts in the verdict of theſe juries, which the judges do not give, but pronounce or declare. And the ſame law that makes good a verdict, given contrary to the advice or direction of the judges, expoſes them to the utmoſt penalties, if, on their own heads, or a command from the king, they ſhould preſume to give a ſentence, without or contrary to a verdict; and no pretenſions to a power of interpreting the law can exempt them, if they break it. The power alſo, with which the judges are entruſted, is but of a moderate extent, and to be executed " bonâ fide." Prevarications are capital, as they proved to Treſilian, Empſon, Dudley, and many others. Nay, even in ſpecial verdicts, the judges are only aſſiſtants to the juries, who find it ſpecially, and the verdict is from them, though the judges, having heard the point argued, declare the ſenſe of the law thereupon. Wherefore, if I ſhould grant, that the king might perſonally aſſiſt in judgments, his work could only be to prevent frauds, and, by the advice of the judges, to ſee that the laws be duly executed, or perhaps to inſpect their behaviour. If he has more than this, it muſt be by virtue of his politic capacity, in which he is underſtood to be always preſent in the principal courts, where juſtice is always done, whether he who wears the crown, be young or old, wiſe or ignorant, good or bad, or whether he like or diſlike what is done.

Moreover, as governments are inſtituted for the obtaining of juſtice, and the king is in a great meaſure entruſted with the power of executing it, it is probable, that the law would have required his preſence in the diſtribution, if there had been but one court; if at the ſame time he could be preſent in more than one; if it were certain he would be guilty of no miſcarriages; if all miſcarriages were to be puniſhed in him, as well as in the judges; or if it were certain he ſhould always be a man of ſuch wiſdom, induſtry, experience, and integrity, as to be an aſſiſtance to, and a watch over thoſe who are appointed for the adminiſtration of juſtice. But there being many courts ſitting at the ſame time, of equal authority, in ſeveral places far diſtant from each other; an impoſſibility that the king ſhould be preſent in all; no manner of aſſurance that the ſame, or greater

* Nullus liber homo capiatur, vel impriſonetur, aut diſſeiſietur de libero tenemento ſuo, etc. niſi per legale judicium parium ſuorum. Mag. Charta. c. 29. Vide ſuprà, p. 345

† Judicabant et judicabantur. Maimonid. Vide ſuprà, p. 250, 251

‡ In juſtitiâ recipiendâ rex cuilibet ex plebe aequalis eſt. Vide ſuprà, p. 314

CHAP. III miſcarriages may not be committed in his preſence than in his abſence, by himſelf than others; no opportunity of puniſhing every delict in him, without bringing the nation into ſuch diſorder, as may be of more prejudice to the public, than an injury done to a private man; the law, which intends to obviate offences, or to puniſh ſuch as cannot be obviated, has directed, that thoſe men ſhould be choſen, who are moſt knowing in it; impoſes an oath upon them, not to be diverted from the due courſe of juſtice, by fear or favour, hopes or reward, particularly by any command from the king; and appoints the ſevereſt puniſhments for them, if they prove falſe to God, and their country.

If any man think, that the words cited from Bracton by our author upon the queſtion, "Quis primò et principaliter poſſit, et debeat judicare? "ſciendum quòd ipſe rex, et non alius, ſi ſolus ad hoc ſufficere poſſit, "cùm ad hoc per virtutem ſacramenti teneatur aſtrictus *," are contrary to what I have ſaid, I deſire the context may be conſidered, that his opinion may be truly underſtood, though the words, taken ſimply and nakedly, may be enough for my purpoſe. For it is ridiculous to infer, that the king has a right of doing any thing, upon a ſuppoſition, that it is impoſſible for him to do it. He therefore, who ſays the king cannot do it, ſays it muſt be done by others, or not at all. But, having already proved, that the king, merely as king, has none of the qualities required for judging all, or any caſes; and that many kings have all the defects of age and perſon, that render men moſt unable and unfit to give any ſentence; we may conclude, without contradicting Bracton, that no king, as king, has a power of judging, becauſe ſome of them are utterly unable and unfit to do it; and if any one has ſuch a power, it muſt be conferred upon him by thoſe who think him able and fit to perform that work. When Filmer finds ſuch a man, we muſt inquire into the extent of that power which is given to him: but this would be nothing to his general propoſition; for he himſelf would hardly have inferred, that becauſe a power of judging in ſome caſes was conferred upon one prince, on account of his fitneſs and ability, therefore all of them, however unfit and unable, have a power of deciding all caſes. Beſides, if he believe Bracton, this power of judging is not inherent in the king, but incumbent upon him, by virtue of his oath, which our author endeavours to enervate and annul. But as that oath is grounded upon the law, and the law cannot preſume impoſſibilities and abſurdities, it cannot intend, and the oath cannot require, that a man ſhould do that, which he is unable and unfit to do. Many kings are unfit to judge cauſes: the law cannot therefore intend they ſhould do it. The context alſo ſhews, that this imagination of the king's judging all cauſes, if he could, is merely chimerical: for Bracton ſays, in the ſame chapter, that "the power of the king is the power of the law †;" that is, that he has no power but by the law. And the law that aims at juſtice cannot make it to depend upon the uncertain humour

* Bract. de Leg. l. 3, c. 9, fol. 107

† Poteſtas ſua juris eſt. Ibid.

of

of a child, a woman, or a fooliſh man; for by that means it would deſtroy itſelf. The law cannot therefore give any ſuch power, and the king cannot have it. SECT. 26

If it be ſaid, that all kings are not ſo; that ſome are of mature age, wiſe, juſt, and good; or, that the queſtion is, not what is good for the ſubject, but what is glorious to the king; and that he muſt not loſe his right, though the people periſh; I anſwer, firſt, that whatever belongs to kings as kings belongs to all kings: this power of judging cannot belong to all, for the reaſons above-mentioned: it cannot therefore belong to any, as king, nor, without madneſs, be granted to any, till he has given teſtimony of ſuch wiſdom, experience, diligence, and goodneſs, as is required for ſo great a work. It imports not what his anceſtors were; virtues are not entailed; and it were leſs improper for the heirs of Hales and Harvey to pretend, that the clients and patients of their anceſtors ſhould depend upon their advice, in matters of law and phyſic, than for the heirs of a great and wiſe prince, to pretend to powers given on account of virtue, if they have not the ſame talents for the performance of the works required.

Common ſenſe declares, that governments are inſtituted, and judicatures erected, for the obtaining of juſtice. The king's bench was not eſtabliſhed, that the chief juſtice ſhould have a great office, but that the oppreſſed ſhould be relieved, and right done. The honour and profit he receives comes in as it were by accident, as the rewards of his ſervice, if he rightly perform his duty: but he may as well pretend he is there for his own ſake, as the king. God did not ſet up Moſes or Joſhua, that they might glory in having ſix hundred thouſand men under their command, but that they might lead the people into the land they were to poſſeſs: that is, they were not for themſelves, but for the people; and the glory they acquired was, by rightly performing the end of their inſtitution. Even our author is obliged to confeſs this, when he ſays, that the king's prerogative is inſtituted, for the good of thoſe that are under it. It is therefore for them that he enjoys it, and it can no otherwiſe ſubſiſt, than in concurrence with that end. He alſo yields, that "the ſafety of the people is the ſupreme law." The right therefore that the king has, muſt be conformable and ſubordinate to it. If any one therefore ſet up an intereſt in himſelf, that is not ſo, he breaks this ſupreme law; he does not live and reign for his people, but for himſelf, and, by departing from the end of his inſtitution, deſtroys it. And, if Ariſtotle (to whom our author ſeems to have a great deference) deſerves credit, ſuch a one ceaſes to be a king, and becomes a tyrant*; he who ought to have been the beſt of men, is turned into the worſt; and he, who is recommended to us under the name of a father, becomes a public enemy to the people. The queſtion therefore is not, what is good for the king, but what is good for the people; and he can have no right repugnant to them.

* Vide ſuprà, p. 249.

Bracton

CHAP. III Bracton is not more gentle. "The king," says he, "is obliged by "his oath, to the utmost of his power, to preserve the church, and the "christian world, in peace; to hinder rapine, and all manner of iniquity; "to cause justice and mercy to be observed: he has no power but from "the law: that only is to be taken for law, quod rectè fuerit definitum *:" he is therefore to cause justice to be done according to that rule, and not to pervert it for his own pleasure, profit, or glory. He may choose judges also, not such as will be subservient to his will, but "viros sapi- "pientes, et timentes Deum, in quibus est veritas eloquiorum, et qui "oderunt avaritiam †." Which proves that kings, and their officers, do not possess their places for themselves, but for the people, and must be such as are fit and able to perform the duties they undertake. The mischievous fury of those, who assume a power above their abilities, is well represented by the known fable of Phaeton: they think they desire fine things for themselves, when they seek their own ruin. In conformity to this, the same Bracton says, that, "if any man who is unskilful, assume "the seat of justice, he falls as from a precipice, &c. and it is the same "thing, as if a sword be put into the hand of a madman ‡;" which cannot but affect the king, as well as those who are chosen by him. If he neglect the functions of his office, "he does unjustly, and becomes the "vicegerent of the devil; for he is the minister of him whose works he "does." This is Bracton's opinion: but desiring to be a more gentle interpreter of the law, I only wish, that princes would consider the end of their institution; endeavour to perform it; measure their own abilities; content themselves with that power which the laws allow; and abhor those wretches, who, by flattery and lyes, endeavour to work upon their frailest passions, by which means they draw upon them that hatred of the people, which frequently brings them to destruction.

Though Ulpian's words, "princeps legibus non tenetur," be granted to have been true in fact, with relation to the Roman empire, in the time when he lived, yet they can conclude nothing against us. The liberty of Rome had been overthrown long before, by the power of the sword, and the law rendered subservient to the will of the usurpers. They were not Englishmen, but Romans, who lost the battles of *Pharsalia* and Philippi.

* Debet rex in coronatione suâ, in nomine Jesu Christi praestito sacramento, haec tria promittere populo sibi subdito. Imprimis, se esse praecepturum, et pro viribus opem impensurum, ut ecclesiae Dei et omni populo Christiano vera pax omni suo tempore observetur. Secundò, ut rapacitates et omnes iniquitates omnibus gradibus interdicat. Tertiò, ut in omnibus judiciis aequitatem praecipiat et misericordiam. . . . Nihil aliud potest rex in terris, nisi id solum quod de jure potest . . . Legis habet vigorem, non quicquid de voluntate regis temerè praesumptum est, sed animo condendi jura, sed quod consilio magistratuum suorum, rege authoritatem praestante, et habitâ super hoc deliberatione, et tractatu, rectè fuerit definitum. Bract. l. 3, c. 9, fol. 107

† Ibid. c. 10, fol. 108

‡ Si quis minus sapiens, et indoctus, sedem judicandi conscendere, et honestatem judicandi sibi praesumserit, ex alto corruit, quia volare satagit, antequam pennas assumat; et qui tali potestatem judicandi dederit perinde erit, ac si gladium poneret in manu furientis. c. 10, fol. 108. l. 1, c. 2, fol. 1

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The carcaſes of their ſenators, not ours, were expoſed to the wolves and vulturs. Pompeius, Scipio, Lentulus, Afranius, Petreius, Cato, Caſſius, and Brutus, were defenders of the Roman, not the Engliſh liberty; and that of their country, not ours, could only be loſt by their defeat. Thoſe who were deſtroyed by the proſcriptions left Rome, not England, to be enſlaved. If the beſt had gained the victory, it could have been no advantage to us, and their overthrow can be no prejudice. Every nation is to take care of their own laws; and whether any one has had the wiſdom, virtue, fortune, and power, to defend them or not, concerns only themſelves. The examples of great and good men acting freely deſerve conſideration; but they only periſh by the ill ſucceſs of their deſigns; and whatever is afterwards done by their ſubdued poſterity ought to have no other effect upon the reſt of the world, than to admoniſh them ſo to join in the defence of their liberties, as never to be brought under the neceſſity of acting by the command of one, to the prejudice of themſelves, and their country. If the Roman greatneſs perſuade us to put an extraordinary value upon what paſſed among them, we ought rather to examine what they did, ſaid, or thought, when they enjoyed that liberty, which was the mother and nurſe of their virtue, than what they ſuffered, or were forced to ſay, when they were fallen under that ſlavery which produced all manner of corruption, and made them the moſt baſe and miſerable people of the world. SECT. 26

For what concerns us, the actions of our anceſtors reſemble thoſe of the antient rather than the later Romans. Though our government be not the ſame with theirs in form, yet it is in principle; and if we are not degenerated, we ſhall rather deſire to imitate the Romans in the time of their virtue, glory, power, and felicity, than what they were, in that of their ſlavery, vice, ſhame, and miſery. In the beſt times, when "the "laws were more powerful than the commands of men *," fraud was accounted a crime ſo deteſtable as not to be imputed to any but ſlaves; and he who had ſought a power above the law, under colour of interpreting it, would have been expoſed to ſcorn or greater puniſhments, if any can be greater than the juſt ſcorn of the beſt men. And as neither the Romans, nor any people of the world, have better defended their liberties than the Engliſh nation, when any attempt has been made to oppreſs them by force, they ought to be no leſs careful to preſerve them from the more dangerous efforts of fraud and falſhood.

Our anceſtors were certainly in a low condition in the time of William the firſt: many of their beſt men had periſhed in the civil wars, or with Harold: their valour was great, but rough, and void of ſkill. The Normans by frequent expeditions into France, Italy, and Spain, had added ſubtilty to the boiſterous violence of their native climate. William had engaged his faith, but broke it, and turned the power with which he was entruſted to the ruin of thoſe that had truſted him. He deſtroyed many

* Imperia legum potentiora quàm hominum. Liv. l. 2, c. 1.

worthy

CHAP. III worthy men, carried others into Normandy, and thought himſelf maſter of all. He was crafty, bold, and elated with victory; but the reſolution of a brave people was invincible. When their laws and liberties were in danger, they reſolved to die, or to defend them; and made him ſee he could no otherwiſe preſerve his crown and life, than by the performance of his oath, and accompliſhing the ends of his election. They neither took him to be the giver nor interpreter of their laws, and would not ſuffer him to violate thoſe of their anceſtors. In this way they always continued. And though perhaps they might want ſkill to fall upon the ſureſt and eaſieſt means of reſtraining the luſts of princes, yet they maintained their rights ſo well, that the wiſeſt princes ſeldom invaded them; and the ſucceſs of thoſe who were ſo fooliſh as to attempt it was ſuch, as may juſtly deter others from following their unproſperous examples. We have had no king ſince William the firſt more hardy than Henry the eighth, and yet he ſo entirely acknowledged the power of making, changing, and repealing laws, to be in the parliament, as never to attempt any extraordinary thing otherwiſe than by their authority. It was not he, but the parliament, that diſſolved the abbies. He did not take their lands to himſelf, but received what the parliament thought fit to give him. He did not reject the ſupremacy of the pope, nor aſſume any other power in ſpiritual matters than the parliament conferred upon him. The intricacies of his marriages, and the legitimation of his children, were ſettled by the ſame power: at leaſt one of his daughters could not inherit the crown upon any other title. They who gave him a power to diſpoſe of the crown by will might have given it to his groom; and he was too haughty to aſk it from them, if he had it in himſelf; which he muſt have had, if the laws and judicatures had been in his hand.

This is farther evidenced by what paſſed in the tower between Sir Thomas More, and Rich the king's ſolicitor; who aſking, if it would not be treaſon to oppoſe Richard Rich, if the parliament ſhould make him king, More ſaid that was "caſus levis;" for the parliament could make and depoſe kings as they thought fit; and then (as more conducing to his own caſe) aſked Rich, if the parliament ſhould enact, "that God "ſhould not be God," whether ſuch as did not ſubmit ſhould be eſteemed traitors *? It is evident, that a man of the acuteneſs and learning of Sir Thomas More would not have made uſe of ſuch an argument to avoid the neceſſity of obeying what the parliament had ordained, by ſhewing his caſe to be of a nature far above the power of man, unleſs it had been confeſſed by all men, that the parliament could do whatever lay within the reach of human power. This may be enough to prove, that the king cannot have a power over the law; and, if he has it not, the power of interpreting laws is abſurdly attributed to him, ſince it is founded upon a ſuppoſition, that he can make them, which is falſe.

* See Herbert's Life of Hen. VIII, anno 1535

SECTION XXVII

MAGNA CHARTA WAS NOT THE ORIGINAL, BUT A DECLARATION, OF THE ENGLISH LIBERTIES. THE KING'S POWER IS NOT RESTRAINED, BUT CREATED, BY THAT AND OTHER LAWS; AND THE NATION THAT MADE THEM CAN ONLY CORRECT THE DEFECTS OF THEM.

I agree with our author, that "Magna Charta was not made to reſtrain "the abſolute authority;" for no ſuch thing was in being or pretended (the folly of ſuch viſions ſeeming to have been reſerved to complete the misfortunes and ignominy of our age) but it was to aſſert the native and original liberties of our nation by the confeſſion of the king then being, that neither he nor his ſucceſſors ſhould any way encroach upon them. And, it cannot be ſaid that the power of kings is diminiſhed by that or any other law; for as they are kings only by law, the law may confer power upon one in particular, or upon him and his ſucceſſors; but can take nothing from them, becauſe they have nothing except what is given to them. But as that which the law gives is given by thoſe who make the law, they only are capable of judging whether he to whom they gave it, do well or ill employ that power, and conſequently are only fit to correct the defects that may be found in it. Therefore, though I ſhould confeſs, that faults may be found in many ſtatutes, and that the whole body of them is greatly defective, it will not follow, that the compendious way of referring all to the will of the king ſhould be taken. But what defects ſoever may be in our law, the diſeaſe is not ſo great as to require extreme remedies, and we may hope for a cheaper cure. Our law may poſſibly have given away too much from the people, and provided only inſufficient defences of our liberties againſt the encroachments of bad princes; but none, who are not in judgment and honeſty like to our author, can propoſe, for a remedy to the evils that proceed from the error of giving too much, the reſignation of all the reſt to them. Whatever he ſays, it is evident, that he knows this to be true, though, when he denies that the power of kings can be reſtrained by acts of parliament, he endeavours to take advantage of ſuch clauſes as were either fraudulently inſerted by the king's officers, who till the days of Henry the fifth, for the moſt part had the penning of the public acts, or through negligence did not fully explain the intentions of the legiſlators; which would be to no purpoſe, if all were put into the hands of the king by a general law from God, that no human power could diminiſh or enlarge; and as his laſt ſhift would obliquely put all into the power of the king, by giving him a right of interpreting the law, and judging ſuch caſes as are not clearly decided; which would be equally impertinent, if he had openly and plainly a right of determining all things according to his will.

CHAP. III

But what defects ſoever may be in any ſtatutes, no great inconveniences could probably enſue, if that for annual parliaments was obſerved, as of right it ought to be. Nothing is more unlikely, than that a great aſſembly of eminent and choſen men ſhould make a law evidently deſtructive to their own deſigns; and no miſchief, that might emerge upon the diſcovery of a miſtake, could be ſo extreme, that the cure might not be deferred till the meeting of the parliament, or at leaſt forty days (in which time the king may call one) if that which the law has fixed ſeem to be too long. If he fail of this, he performs not his truſt; and he that would reward ſuch a breach of it, with a vaſt and uncontrollable power, may be juſtly thought equal in madneſs to our author, who by forbidding us to examine the titles of kings, and injoining an entire veneration of the power, by what means ſoever obtained, encourages the worſt of men to murder the beſt of princes, with an aſſurance, that, if they proſper, they ſhall enjoy all the honours and advantages that this world can afford.

Princes are not much more beholden to him for the haughty language he puts into their mouths, it having been obſerved, that the worſt are always moſt ready to uſe it; and their extravagances having been often chaſtiſed by law ſufficiently proves, that their power is not derived from a higher original, than the law of their own countries.

If it were true, that the anſwer ſometimes given by kings to bills preſented for their aſſent, did, as our author ſays, amount to a denial, it could only ſhew, that they have a negative voice upon that which is agreed by the parliament, and is far from a power of acting by themſelves, being only a check upon the other parts of the government. But indeed it is more than an eluſion; and he, that does by art obliquely elude, confeſſes he has not a right abſolutely to refuſe. It is natural to kings, eſpecially to the worſt, to ſcrew up their authority to the height; and nothing can more evidently prove the defect of it, than the neceſſity of having recourſe to ſuch pitiful evaſions, when they are unwilling to do that which is required. But if I ſhould grant, that the words import a denial, and that (notwithſtanding thoſe of the coronation oath, "quas "vulgus elegerit") they might deny, no more could be inferred from thence, than that they are entruſted with a power equal, in that point, to that of either houſe, and cannot be ſupreme in our author's ſenſe, unleſs there were in the ſame ſtate at the ſame time three diſtinct ſupreme and abſolute powers; which is abſurd.

His caſes, relating to the proceedings of the ſtar-chamber and council-table, do only prove, that ſome kings have encroached upon the rights of the nation, and been ſuffered till their exceſſes growing to be extreme, they turned to the ruin of the miniſters that adviſed them, and ſometimes of the kings themſelves. But the juriſdiction of the council having been regulated by the ſtatute of the 16 Car. I. and the ſtar-chamber more lately aboliſhed, they are nothing to our diſpute.

Such as our author uſually impute to treaſon and rebellion the changes that upon ſuch occaſions have enſued; but all impartial men do not only juſtify

juſtify them, but acknowledge, that all the crowns of Europe are at this day enjoyed by no other title than ſuch acts ſolemnly performed by the reſpective nations, who, either diſliking the perſon that pretended to the crown (though next in blood) or the government of the preſent poſſeſſor, have thought fit to prefer another perſon or family. They alſo ſay, that as no government can be ſo perfect but ſome defect may be originally in it, or afterwards introduced, none can ſubſiſt, unleſs they be from time to time reduced to their firſt integrity, by ſuch an exertion of the power of thoſe for whoſe ſake they were inſtituted, as may plainly ſhew them to be ſubject to no power under heaven, but may do whatever appears to be for their own good. And as the ſafety of all nations conſiſts in rightly placing and meaſuring this power, ſuch as have been found always to proſper, who have given it to thoſe from whom uſurpations were leaſt to be feared; who have been leaſt ſubject to be awed, cheated, or corrupted; and who, having the greateſt intereſt in the nation, were moſt concerned to preſerve its power, liberty, and welfare. This is the greateſt truſt that can be repoſed in men. This power was by the Spartans given to the ephori, and the ſenate of twenty eight; in Venice to that which they call "concilio de pregadi*;" in Germany, Spain, France, Sweden, Denmark, Poland, Hungary, Bohemia, Scotland, England, and generally all the nations that have lived under the Gothic polity, it has been in their general aſſemblies under the names of diets, cortes, parliaments, ſenates, and the like. But in what hands ſoever it is, the power of making, abrogating, changing, correcting, and interpreting laws, has been in the ſame; kings have been rejected or depoſed; the ſucceſſion of the crown ſettled, regulated, or changed: and I defy any man to ſhew me one king among all the nations above-mentioned, that has any right to the crown he wears, unleſs ſuch acts are good. SECT. 27

If this power be not well placed, or rightly proportioned to that which is given to other magiſtrates, the ſtate muſt neceſſarily fall into great diſorders, or the moſt violent and dangerous means muſt be frequently uſed to preſerve their liberty. Sparta and Venice have rarely been put to that trouble, becauſe the ſenates were ſo much above the kings and dukes in power, that they could without difficulty bring them to reaſon. The Gothic kings in Spain never ventured to diſpute with the nobility; and Vitiza and Roderic expoſed the kingdom as a prey to the Moors, rather by weakening it through the neglect of military diſcipline, joined to their own ignorance and cowardice, and by evil example bringing the youth to reſemble them in lewdneſs and baſeneſs, than by eſtabliſhing in themſelves a power above the law. But in England our anceſtors, who ſeem to have had ſome ſuch thing in their eye, as balancing the powers, by a fatal miſtake placed uſually ſo much in the hands of the king, that whenever he

* The Venetian ſenate is called Concilio de pregadi, becauſe formerly the principal members of the city were called together, or "invited," when any extraordinary emergency required their attendance.

CHAP. III happened to be bad, his extravagances could not be repreſſed without great danger. And as this has in ſeveral ages coſt the nation a vaſt proportion of generous blood, ſo it is the cauſe of our preſent difficulties, and threatens us with more, but can never deprive us of the rights we inherit from our fathers.

SECTION XXVIII

THE ENGLISH NATION HAS ALWAYS BEEN GOVERNED BY ITSELF, OR ITS REPRESENTATIVES.

Having proved, that the people of England have never acknowledged any other human law than their own, and that our parliaments only, having the power of making and abrogating laws, can interpret them, and decide hard caſes, it plainly appears there can be no truth in our author's aſſertion, that "the king is the author, corrector, and moderator of both "ſtatute and common law." And nothing can be more frivolous than what he adds, that "neither of them can be a diminution of that natural "power which kings have over their people as fathers;" inaſmuch as the differences between paternal and monarchical power (as he aſſerts it) are vaſt and irreconcileable in principle and practice, as I have proved at large in the former parts of this work.

But leſt we ſhould be too proud of the honour he is pleaſed to do to our parliaments by making uſe of their authority, he ſays, "we are firſt to "remember, that till the conqueſt" (which name, for the glory of our nation, he gives to the coming in of the Normans) "there could be no "parliaments aſſembled of the general ſtates, becauſe till thoſe days we "cannot find it was entirely united into one kingdom." Secondly, he doubts, "whether the parliaments, in the time of the Saxons, were com-"poſed of the nobility and clergy, or whether the commons were alſo "called;" but concludes, "there could be no knights of any ſhires, "becauſe there were no ſhires." Thirdly, "that Henry the firſt cauſed "the commons firſt to aſſemble knights and burgeſſes of their own "chooſing;" and would make this to be an act of grace and favour from that king: but adds, that "it had been more for the honour of "parliaments, if a king, whoſe title to the crown had been better, had "been the author of the form of it."

In anſwer to the firſt, I do not think myſelf obliged to inſiſt upon the name or form of the parliament; for the authority of a magiſtracy proceeds not from the number of years that it has continued, but the rectitude of the inſtitution, and the authority of thoſe that inſtituted it. The power of Saul, David, and Jeroboam, was the ſame with that which belonged to the laſt kings of Iſrael and Judah. The authority of the Roman conſuls, dictators, praetors, and tribunes, was the ſame as ſoon as it was eſtabliſhed; was as legal and juſt as that of the kings of Denmark, which

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is ſaid to have continued above three thouſand years. For as time can SECT. 23
make nothing lawful or juſt, that is not ſo of itſelf (though men are unwilling to change that which has pleaſed their anceſtors, unleſs they diſcover great inconveniences in it) that which a people does rightly eſtabliſh for their own good is of as much force the firſt day, as continuance can ever give to it: and therefore in matters of the greateſt importance, wiſe and good men do not ſo much inquire what has been, as what is good, and ought to be; for that which of itſelf is evil, by continuance is made worſe, and, upon the firſt opportunity, is juſtly to be aboliſhed. But if that liberty, in which God created man, can receive any ſtrength from continuance, and the rights of Engliſhmen can be rendered more unqueſtionable by preſcription, I ſay, that the nations, whoſe rights we inherit, have ever enjoyed the liberties we claim, and always exerciſed them in governing themſelves popularly, or by ſuch repreſentatives as have been inſtituted by themſelves, from the time they were firſt known in the world.

The Britons and Saxons lay ſo long hid in the obſcurity that accompanies barbariſm, that it is in vain to ſeek what was done by either in any writers more antient than Caeſar and Tacitus. The firſt deſcribes the Britons to have been a fierce people, zealous for liberty, and ſo obſtinately valiant in the defence of it, that though they wanted ſkill, and were overpowered by the Romans, their country could no otherwiſe be ſubdued, than by the ſlaughter of all the inhabitants that were able to bear arms. He calls them a free people, inaſmuch as they were not like the Gauls, governed by laws made by the great men, but by the people. In his time they choſe Caſſivellaunus, and afterwards Caractacus, Arviragus, Galgacus, and others, to command them in their wars, but they retained the government in themſelves. That no force might be put upon them, they met armed in their general aſſemblies; and though the ſmaller matters were left to the determination of the chief men, choſen by themſelves for that purpoſe, they reſerved the moſt important (among which the chooſing of thoſe men was one) to themſelves. When the Romans had brought them low, they ſet up certain kings to govern ſuch as were within their territories*: but thoſe who defended themſelves by the natural ſtrength of their ſituation, or retired into the north, or the iſlands, were ſtill governed by their own cuſtoms, and were never acquainted with domeſtic or foreign ſlavery. The Saxons, from whom we chiefly derive our original and manners, were no leſs lovers of liberty, and better underſtood the ways of defending it. They were certainly the moſt powerful and valiant people of Germany; and what the Germans performed under Arioviſtus, Arminius, and Maroboduus, ſhews both their force, and their temper. If ever fear entered into the heart of Caeſar, it ſeems to have been when he had to deal with Arioviſtus. The advantages, that the brave Germanicus obtained againſt Arminius, were at leaſt thought equal

* Ut haberet inſtrumenta ſervitutis et reges. Tacit. in vitâ Agric. § 14.

CHAP. III to the greateſt victories that had been gained by any Roman captain, becauſe theſe nations fought not for riches, or any inſtruments of luxury or pleaſure, which they deſpiſed, but for liberty. This was the principle in which they lived, as appears by their words and actions; ſo that Arminius, when his brother Flavius, who ſerved the Romans, boaſted of the increaſe of his pay, and the marks of honour he had received, in ſcorn called them the "rewards of the vileſt ſervitude *." But when he himſelf endeavoured to uſurp a power over the liberty of his country, which he had ſo bravely defended, he was killed by thoſe he would have oppreſſed. Tacitus, farther deſcribing the nature of the Germans, ſhews that the Romans had run greater hazards from them than from the Samnites, Carthaginians, and Parthians; and attributes their bravery to the liberty they enjoyed, for they are, ſays he, neither exhauſted by tribute, nor vexed by publicans †. And leſt this liberty ſhould be violated, "the chief men conſult about things of leſſer moment, but the moſt "important matters are determined by all ‡." Whoever would know the opinion of that wiſe author concerning the German liberty, may read his excellent treatiſe of their manners and cuſtoms; but I preſume this may be enough to prove, that they lived free under ſuch magiſtrates as they choſe, regulated by ſuch laws as they made, and retained the principal powers of the government in their general or particular councils. Their kings and princes had no other power than was conferred upon them by theſe aſſemblies, who, having all in themſelves, could receive nothing from them, who had nothing to give §.

It is as eaſily proved, that the Saxons or Angli, from whom we deſcend, were eminent among thoſe, whoſe power, virtue, and love to liberty the above-mentioned hiſtorian ſo highly extols, inaſmuch as, beſides what he ſays in general of the Saxons, he names the Angli, deſcribes their habitation near the Elb, and their religious worſhip of the goddeſs Erthum, or the Earth ¶, celebrated in an iſland lying in the mouth of that river, thought to be Heyligland, in reſemblance of which a ſmall one lying over againſt Berwick, is called Holy iſland. If they were free in their own country, they muſt be ſo when they came hither. The

* Flavius aucta ſtipendia, torquem, et coronam, aliaque militaria dona memorat, irridente Arminio vilia ſervitii pretia. Tacit. Annal. l. 2, § 9

† Quippe regno Arſacis acrior eſt Germanorum libertas. Tacit. de Morib. Germ. § 37. —Batavi exempti oneribus et collationibus, et tantùm in uſum praeliorum ſepoſiti, velut tela atque arma bellis reſervantur. Ibid. § 29

‡ De minoribus rebus principes conſultant, de majoribus omnes. Ibid. § 11

§ Ut turbae placuit, conſidunt armati: ſilentium per ſacerdotes, quibus tum et coercendi jus eſt, imperatur. Mox rex vel princeps, prout aetas cuique, prout nobilitas, prout decus bellorum, prout facundia eſt, audiuntur, auctoritate ſuadendi magis quàm jubendi poteſtate. Si diſplicuit ſententia, fremitu aſpernantur; ſin placuit, frameas concutiunt. Ibid. § 11

¶ Nec quidquam notabile in ſingulis, niſi quòd in commune Herthum, id eſt, Terram matrem colunt, eamque intervenire rebus hominum, invehi populis arbitrantur. Eſt in inſulâ oceani caſtum nemus, dicatum in eo vehiculum veſte contectum, attingere uni ſacerdoti conceſſum. Is adeſſe penetrali deam intelligit, vectamque bubus feminis multâ cum veneratione proſequitur. Ibid. § 40

manner

manner of their coming ſhews they were more likely to impoſe, than SECT. 28
ſubmit to ſlavery; and if they had not the name of parliament, it was becauſe they did not ſpeak French; or, not being yet joined with the Normans, they had not thought fit to put their affairs into that method: but, having the root of power and liberty in themſelves, they could not but have a right of eſtabliſhing the one in ſuch form as beſt pleaſed them, for the preſervation of the other.

This being, as I ſuppoſe, undeniable, it imports not whether the aſſemblies, in which the ſupreme power of each nation did reſide, were frequent or rare; compoſed of many or few perſons; ſitting all together in one place, or in more; what name they had; or whether every free man did meet and vote in his own perſon, or a few were delegated by many. For they who have a right inherent in themſelves, may reſign it to others; and they who can give a power to others may exerciſe it themſelves, unleſs they recede from it by their own act; for it is only matter of convenience, of which they alone can be the judges, becauſe it is for themſelves only that they judge. If this were not ſo, it would be very prejudicial to kings: for it is certain that Caſſivellaunus, Caractacus, Arviragus, Galgacus, Hengiſt, Horſa, and others among the Britons and Saxons, what name ſoever may have been abuſively given to them, were only temporary magiſtrates choſen upon occaſion of preſent wars; but we know of no time in which the Britons had not their great council to determine their moſt important affairs: and the Saxons in their own country had their councils, where all were preſent, and in which Tacitus aſſures us they diſpatched their greateſt buſineſs. Theſe were the ſame with the micel-gemotes which they afterwards held here, and might have been called by the ſame name, if Tacitus had ſpoken Dutch.

If a people therefore have not a power to create at any time a magiſtracy which they had not before, none could be created at all; for no magiſtracy is eternal. And if for the validity of the conſtitution it be neceſſary, that the beginning muſt be unknown, or that no other could have been before it, the monarchy among us cannot be eſtabliſhed upon any right; for, though our anceſtors had their councils and magiſtrates, as well here as in Germany, they had no monarchs. This appears plainly by the teſtimony of Caeſar and Tacitus; and our later hiſtories ſhew, that as ſoon as the Saxons came into this country, they had their micel-gemotes, which were general aſſemblies of the noble and free-men, who had in themſelves the power of the nation: and though when they increaſed in numbers, they erected ſeven kingdoms, yet every one retained the ſame uſage within itſelf. Theſe aſſemblies were evidently the ſame in power with our parliaments; and though they differed in name or form, it matters not; for they who could act in the one, could not but have a power of inſtituting the other; that is, the ſame people that could meet together in their own perſons, and according to their own pleaſure order all matters relating to themſelves, whilſt three or four counties only were under one government, and their numbers were not ſo great, or their habitation ſo far diſtant, that they

CHAP. III they might not meet all together without inconvenience, with the ſame right might depute others to repreſent them, when, being joined in one, no place was capable of receiving ſo great a multitude, and the frontiers would have been expoſed to the danger of foreign invaſions, if any ſuch thing had been practiſed.

But if the authority of parliaments, for many ages repreſenting the whole nation, were leſs to be valued, as our author inſinuates, becauſe they could not repreſent the whole, when it was not joined in one body, that of kings muſt come to nothing; for there could be no one king over all, when the nation was divided into ſeven diſtinct governments: and it is moſt abſurd to think, that the nation, which had ſeven great councils, or micel-gemotes, at the ſame time they had ſeven kingdoms, could not as well unite the ſeven councils as the ſeven kingdoms into one. It is to as little purpoſe to ſay, that the nation did not unite itſelf, but the ſeveral parcels came to be inherited by one; for that one could inherit no more from the others than what they had; and the ſeven being only magiſtrates ſet up by the micel-gemotes, &c. the one muſt be ſo alſo. And it is neither reaſonable to imagine, nor poſſible to prove, that a fierce nation, jealous of liberty, and who had obſtinately defended it in Germany, againſt all invaders, ſhould conquer this country to enſlave themſelves, and purchaſe nothing by their valour but that ſervitude which they abhorred; or be leſs free when they were united into one ſtate, than they had been when they were divided into ſeven; and leaſt of all, that one man could firſt ſubdue his own people, and then all the reſt, when, by endeavouring to ſubdue his own, he had broken the truſt repoſed in him, and loſt the right conferred upon him, and without them had not power to ſubdue any. But as it is my fate almoſt ever to diſſent from our author, I affirm that the variety of government, which is obſerved to have been among the Saxons, who in ſome ages were divided, in others united, ſometimes under captains, in other times under kings, ſometimes meeting perſonally in the micel-gemotes, ſometimes by their delegates in the wittena-gemotes, does evidently teſtify, that they ordered all things according to their own pleaſure; which being the utmoſt act of liberty, it remained inviolable under all thoſe changes, as we have already proved by the examples of Offa, Ina, Alfred, Canutus, Edward, and other particular, as well as univerſal kings: and we may be ſure thoſe of the Norman race can have no more power, ſince they came in by the ſame way, and ſwore to govern by the ſame laws.

2. I am no way concerned in our author's doubt, "whether parliaments "did, in thoſe days, conſiſt of nobility and clergy; or whether the com-"mons were alſo called." For if it were true, as he aſſerts, that, according to the eternal law of God and nature, there can be no government in the world but that of an abſolute monarch, whoſe ſovereign majeſty can be diminiſhed by no law or cuſtom, there could be no parliaments, or other magiſtracies, that did not derive their power and being from his will. But having proved, that the Saxons had their general councils

councils and aſſemblies, when they had no kings, that by them kings were made, and the greateſt affairs determined, whether they had kings or not, it can be of no importance, whether in one or more ages the commons had a part in the government, or not. For the ſame power that inſtituted a parliament without them might, when they thought fit, receive them into it: or rather, if they who had the government in their hands did, for reaſons known to themſelves, recede from the exerciſe of it, they might reſume it when they pleaſed. SECT. 28.

Nevertheleſs it may be worth our pains to inquire, what our author means by nobility. If ſuch, as at this day by means of patents obtained for money, or by favour, without any regard to merit in the perſons, or their anceſtors, are called dukes, marquiſes, &c. I give him leave to impute as late and baſe an original to them as he pleaſes, without fearing, that the rights of our nation can thereby be impaired; and am content, that, if the king do not think fit to ſupport the dignity of his own creatures, they may fall. But if by noblemen we are to underſtand ſuch as have been ennobled by the virtues of their anceſtors, manifeſted in ſervices done to their country, I ſay, that all nations, among whom virtue has been eſteemed, have had a great regard to them and their poſterity. And though kings, when they were made, have been entruſted by the Saxons, and other nations, with a power of ennobling thoſe, who, by ſervices rendered to their country, might deſerve that honour, yet the body of the nobility was more antient than ſuch; for it had been equally impoſſible to take kings, according to Tacitus, out of the nobility *, if there had been no nobility, as to take captains for their virtue, if there had been no virtue. Princes could not, without breach of truſt, confer honours upon thoſe that did not deſerve them: which is ſo true, that this practice was objected as the greateſt crime againſt Vortigern, the laſt and the worſt of the Britiſh kings †. And though he might pretend (according to ſuch cavils as are uſual in our time) that the judgment of thoſe matters was referred to him, yet the world judged of his crimes; and when he had rendered himſelf odious to God and men by them, he periſhed in them, and brought deſtruction upon his country, that had ſuffered them too long.

As among the Turks, and moſt of the eaſtern tyrannies, there is no nobility, and no man has any conſiderable advantage above the common people, unleſs by the immediate favour of the prince, ſo in all the legal kingdoms of the north, the ſtrength of the government has always been placed in the nobility; and no better defence has been found againſt the encroachments of ill kings, than by ſetting up an order of men, who, by

* Reges ex nobilitate, duces ex virtute ſumunt. Tacit. de Morib. Germ. § 7

† Sublimato eo, coepit lues omnium ſcelerum creſcere: ſaeviebat ſcurrilis nequitia, odium veritatis, contemptus Dei, litigium, contentio luxûs, flagitium, ut vas omnium ſcelerum ſolus videretur Vortigernus: et, quod maximè regiae honeſtati contrarium eſt, nobiles deprimens, et moribus et ſanguine ignobiles extollens, Deo et hominibus efficitur odioſus. Mat. Weſtm. ſub ann. 445, p. 80

CHAP. III holding large territories, and having great numbers of tenants and dependents, might be able to reſtrain the exorbitances, that either the kings, or the commons, might run into. For this end Spain, Germany, France, Poland, Denmark, Sweden, Scotland, and England, were almoſt wholly divided into lordſhips under ſeveral names, by which every particular poſſeſſor owed allegiance (that is, ſuch an obedience as the law required) to the king, and he reciprocally ſwore to perform that which the ſame law exacted from him.

When theſe nations were converted to the Chriſtian religion, they had a great veneration for the clergy; and, not doubting but that the men whom they eſteemed holy would be juſt, thought their liberties could not be better ſecured, than by joining thoſe, who had the direction of their conſciences, to the noblemen who had the command of their forces. This ſucceeded ſo well, in relation to the defence of the public rights, that in all the fore-mentioned ſtates, the biſhops, abbots, &c. were no leſs zealous or bold in defending the public liberty, than the beſt and greateſt of the lords. And if it were true, that things being thus eſtabliſhed, the commons did neither perſonally, nor by their repreſentatives, enter into the general aſſemblies, it could be of no advantage to kings: for ſuch a power as is above-mentioned is equally inconſiſtent with the abſolute ſovereignty of kings, if placed in the nobility and clergy, as if the commons had a part. If the king has all, no other man, nor number of men, can have any. If the nobility and clergy have the power, the commons may have their ſhare alſo. But I affirm, that thoſe whom we now call commons have always had a part in the government, and their place in the councils that managed it; for if there was a diſtinction, it muſt have been by patent, birth, or tenure.

As for patents, we know they began long after the coming of the Normans, and thoſe that now have them cannot pretend to any advantage on account of birth or tenure, beyond many of thoſe who have them not. Nay, beſides the ſeveral branches of the families that now enjoy the moſt antient honours, which conſequently are as noble as they, and ſome of them of the elder houſes, we know many that are now called commoners, who in antiquity and eminency are no way inferior to the chief of the titular nobility: and nothing can be more abſurd, than to give a prerogative of birth to Craven, Tufton, Hyde, Bennet, Oſborn, and others, before the Cliftons, Hampdens, Courtneys, Pelhams, St. Johns, Baintons, Wilbrahams, Hungerfords, and many others. And if the tenures of their eſtates be conſidered, they have the ſame, and as antient as any of thoſe who go under the names of duke, or marquis. I forbear to mention the ſordid ways of attaining to titles in our days; but whoever will take the pains to examine them ſhall find, that they rather defile than ennoble the poſſeſſors. And whereas men are truly ennobled only by virtue, and reſpect is due to ſuch as are deſcended from thoſe who have bravely ſerved their country, becauſe it is preſumed, till they ſhew the contrary, that they will reſemble their anceſtors, theſe modern courtiers, by their names

and

and titles, frequently oblige us to call to mind ſuch things as are not to be mentioned without bluſhing. Whatever the antient noblemen of England were, we are ſure they were not ſuch as theſe. And though it ſhould be confeſſed, that no others than dukes, marquiſes, earls, viſcounts, and barons, had their places in the councils mentioned by Caeſar and Tacitus, or in the great aſſemblies of the Saxons, it could be of no advantage to ſuch as are now called by thoſe names. They were the titles of offices conferred upon thoſe, who did and could beſt conduct the people in time of war, give counſel to the king, adminiſter juſtice, and perform other public duties; but were never made hereditary except by abuſe; much leſs were they ſold for money, or given as recompences of the vileſt ſervices. If the antient order be totally inverted, and the ends of its inſtitution perverted, they, who from thence pretend to be diſtinguiſhed from other men, muſt build their claim upon ſomething very different from antiquity. SECT. 28

This being ſufficient, if I miſtake not, to make it appear, that the antient councils of our nation did not conſiſt of ſuch as we now call noblemen, it may be worth our pains to examine, of what ſort of men they did conſiſt. And though I cannot much rely upon the credit of Camden, which he has forfeited by a great number of untruths, I will begin with him, becauſe he is cited by our author. If we will believe him, "that "which the Saxons called wittena-gemote, we may juſtly name parliament, "which has the ſupreme and moſt ſacred authority of making, abrogating, "and interpreting laws, and generally of all things relating to the ſafety "of the commonwealth *." This wittena-gemote was, according to William of Malmeſbury, "the general meeting of the ſenate and people †;" and Sir Harry Spelman calls it, "the general council of the clergy and "people ‡." In the aſſembly at Calchuth it was decreed by the archbiſhops, biſhops, abbots, dukes, ſenators, and the people of the land "(populo terrae)" that "the kings ſhould be elected by the prieſts and "elders of the people §." By theſe Offa, Ina, and others, were made kings; and Alfred, in his will, acknowledged his crown from them ¶. Edgar was elected by all the people, and not long after depoſed by them, and again reſtored in a general aſſembly **. Theſe things being ſometimes

* Quod Saxones olim wittena-gemot, id eſt, ſapientium conventus, nos PARLAMENTUM; et ut univerſum Aetoliae concilium Panaetolium Livio nominatur, ita PANANGLIUM rectè dici poſſit. Ex tribus enim Angliae ordinibus conſtat, et totius Angliae corpus repraeſentat, à principe pro arbitrio indicitur, ſummamque et ſacroſanctam auctoritatem habet, in legibus ferendis, confirmandis, antiquandis, interpretandis, et in omnibus quae ad reipublicae ſalutem ſpectant. Camd. Brit. p. 106, Edit. Franc. 1590

† Generalis ſenatûs et populi conventus. Malmeſb. l. 3, p. 99

‡ Commune concilium tam cleri quam populi. Hoc erat Concil. Cantuariae ſub Ethelberto rege, anno 605. Spelm. Concil. p. 127

§ Ut reges à ſacerdotibus et ſenioribus populi eligantur. Spelm. Concil. p. 296

¶ Quam Deus ac principes cum ſenioribus populi miſericorditer ac benignè dederunt. Teſtam. Alfredi. Vide ſuprà, p. 322

** Coram omni multitudine populi Anglorum. Spelm. Concil. ſub ann. 969, p. 482. Vide ſuprà, p. 322

CHAP. III said to be done by the aſſent of the barons of the kingdom, Camden ſays, that "under the name of the baronage, all the orders of the kingdom are "in a manner comprehended*;" and it cannot be otherwiſe underſtood, if we conſider, that thoſe called noblemen, or the nobility of England, are often, by the hiſtorians, ſaid to be "infinita multitudo," an infinite multitude.

If any man aſk how the nobility came to be ſo numerous, I anſwer, that the northern nations, who were perpetually in arms, put a high eſteem upon military valour; ſought by conqueſt to acquire better countries than their own; valued themſelves according to the numbers of men they could bring into the field; and to diſtinguiſh them from villains, called thoſe noblemen, who nobly defended and enlarged their dominions by war; and for a reward of their ſervices, in the diviſion of lands gained by conqueſt, they diſtributed to them freeholds, under the obligation of continuing the ſame ſervice to their country. This appears by the name of knight's ſervice, a knight being no more than a ſoldier, and a knight's fee no more than was ſufficient to maintain one. It is plain, that knighthood was always eſteemed nobility; ſo that no man, of what quality ſoever, thought a knight inferior to him, and thoſe of the higheſt birth could not act as noblemen till they were knighted. Among the Goths in Spain, the cutting off the hair (which being long was the mark of knighthood) was accounted a degrading, and looked upon to be ſo great a mark of infamy, that he who had ſuffered it, could never bear any honour or office in the commonwealth; and there was no dignity ſo high, but every knight was capable of it. There was no diſtinction of men above it, and even to this day "baron," or "varon," in their language, ſignifies no more than "vir" in Latin, which is not properly given to any man, unleſs he be free. The like was in France, till the coming in of the third race of kings, in which time the twelve peers (of whom ſix only were laymen) were raiſed to a higher dignity, and the commands annexed made hereditary; but the honour of knighthood was thereby no way diminiſhed. Though there were dukes, earls, marquiſes, and barons, in the time of Froiſſart, yet he uſually calls them knights: and Philip de Comines, ſpeaking of the moſt eminent men of his time, calls them good, wiſe, or valiant knights. Even to this day the name of gentleman comprehends all that is raiſed above the common people. Henry the fourth uſually called himſelf the firſt gentleman in France: and it is an ordinary phraſe among them, when they ſpeak of a gentleman of good birth, to ſay, "il eſt "noble comme le roi, he is as noble as the king." In their general aſſembly of eſtates, "the chamber of the nobleſſe," which is one of three,

* BARO ex illis nominibus videatur, quae tempus paulatim meliora, et molliora reddidit: nam longo poſt tempore, non milites, ſed qui liberi erant domini, et thani Saxonibus dicebantur, barones vocari coeperunt; necdum magni honoris erat, nam et primis Normannorum temporibus comites nonnulli ſuos ſub ſe barones habuerunt, et melioris notae cives barones vocabantur. Paulò autem pòſt eò honoris pervenit, ut nomine baronagii Angliae omnes quodammodo regni ordines continerentur. Camd. Brit. p. 104.

is

is compoſed of the deputies ſent by the gentry of every province. And SECT. 28
in the inquiry, made about the year 1668 concerning nobility, no notice was taken of ſuch as had aſſumed the titles of earl, marquis, viſcount, or baron, but only of thoſe who called themſelves gentlemen; and if they could prove that name to belong to them, they were left to uſe the other titles as they pleaſed. When duels were in faſhion (as all know they were lately) no man, except the princes of the blood, and marſhals of France, could with honour refuſe a challenge from any gentleman: the firſt, becauſe it was thought unfit, that he who might be king ſhould fight with a ſubject to the danger of the commonwealth, which might, by that means, be deprived of its head: the others being by their office commanders of the nobility, and judges of all the controverſies relating to honour, that happen among them, cannot reaſonably be brought into private conteſts with any. In Denmark, noblemen and gentlemen are the ſame thing; and till the year 1660, they had the principal part of the government in their hands. When Charles Guſtavus, king of Sweden, invaded Poland in the year 1655, it is ſaid, that there were above three hundred thouſand gentlemen in arms to reſiſt him. This is the nobility of that country, kings are choſen by them: every one of them will ſay, as in France, "he is noble as the king." The laſt king was a private man among them, not thought to have had more than four hundred pounds a year. He who now reigns was not at all above him in birth or eſtate, till he had raiſed himſelf by great ſervices done for his country in many wars; and there was not one gentleman in the nation who might not have been choſen as well as he, if it had pleaſed the aſſembly that did it.

This being the nobility of the northern nations, and the true baronage of England, it is no wonder that they were called "nobiles;" the moſt eminent among them "magnates, principes, proceres;" and ſo numerous, that they were eſteemed to be "multitudo infinita*." One place was hardly able to contain them; and the inconveniences of calling them all together appeared to be ſo great, that in time they choſe rather to meet by repreſentatives, than every one in his own perſon. The power therefore remaining in them, it matters not what method they obſerved in the execution. They who had the ſubſtance in their hands, might give it what form they pleaſed. Our author ſufficiently manifeſts his ignorance, in ſaying, there could be no knights of the ſhires in the time of the Saxons, becauſe there were no ſhires; for the very word is Saxon, and we find the names of Berkſhire, Wiltſhire, Devonſhire, Dorſetſhire, and others, moſt frequently in the writings of thoſe times; and dukes, earls, thanes, or aldermen, appointed to command the forces, and look to the

* When a grant of tithe was made to the church under Ethelwolf, in a pitenagemote, or parliament, held at Wincheſter in 855, it was done, praeſentibus et ſubſcribentibus archiepiſcopis et epiſcopis Angliae univerſis, necnon Beorredo rege Merciae, et Edmundo Eaſtanglorum rege, abbatum, et abbatiſſarum, ducum, comitum, procerumque totius terrae, aliorumque fidelium INFINITA MULTITUDINE, qui omnes regium chirographum laudaverunt, dignitates verò ſua nomina ſubſcripſerunt. Ingulph. p. 863. Spelm. Concil. p. 350

diſtri-

CHAP. III diſtribution of juſtice in them. Selden cites Ingulphus for ſaying, that "Alfred was the firſt that changed the provinces, &c. into counties *;" but refutes him, and proves, that the diſtinction of the land into ſhires or counties (for ſhire ſignified no more than the ſhare or part committed to the care of the earl or comes) was far more antient. Whether the firſt diviſions by the Saxons were greater or leſſer than the ſhires or counties now are, is nothing to the queſtion: they who made them to be as they were could have made them greater or leſſer, as they pleaſed. And whether they did immediately, or ſome ages after that diſtinction, ceaſe to come to their great aſſemblies, and rather chooſe to ſend their deputies; or whether ſuch deputies were choſen by counties, cities, and boroughs, as in our days, or in any other manner, can be of no advantage or prejudice to the cauſe that I maintain. If the power of the nation, when it was divided into ſeven kingdoms, or united under one, did reſide in the micel-gemotes or wittena-gemotes; if theſe conſiſted of the nobility and people, who were ſometimes ſo numerous, that no one place could well contain them; and if the preference given to the chief among them was on account of the offices they executed, either in relation to war or juſtice, which no man can deny, I have as much as ſerves for my purpoſe. It is indifferent to me, whether they were called earls, dukes, aldermen, heretochs †, or thanes; for it is certain, that the titular nobility, now in mode among us, has no reſemblance to this antient nobility of England. The novelty therefore is on the other ſide, and that of the worſt ſort; becauſe, by giving the name of noblemen (which antiently belonged to ſuch as had the greateſt intereſts in nations, and were the ſupporters of their liberty) to court-creatures, who often have none, and either acquire their honours by money, or are preferred for ſervile, and ſometimes impure ſervices rendered to the perſon that reigns, or elſe for miſchiefs done to their country, the conſtitution has been wholly inverted, and the truſt repoſed in the kings (who in ſome meaſure had the diſpoſal of offices and honours) miſemployed. This is farther aggravated by appropriating the name of noblemen ſolely to them: whereas the nation having been antiently divided only into freemen or noblemen (who were the ſame) and villains, the firſt were, as Tacitus ſays of their anceſtors the Germans, "exempted "from burdens and contributions, and reſerved like arms for the uſes of "war ‡," while the others were little better than ſlaves, appointed to cultivate the lands, or to other ſervile offices. And I leave any reaſonable man to judge, whether the latter condition be that of thoſe we now call

* Totius Angliae pagos et provincias in comitatus primus omnium commutavit, etc. Ingulph. p. 870. See Selden's Titles of Honor, p. 2, c. 5, p. 509

† Erant et aliae poteſtates et dignitates per provincias, et patrias univerſas, et per ſingulos comitatus totius regni conſtitutae, qui heretoches apud Anglos vocabantur, ſcilicet barones nobiles et inſignes, ſapientes et fideles, et animoſi: Latinè verò dicebantur ductores exercitûs: apud Gallos capitales conſtabularii, vel mareſchalli exercitûs. Vide Leges Edovardi regis, c. 35. Edit. Lambardi, p. 147

‡ Exempti oneribus et collationibus, et tantùm in uſum praeliorum ſepoſiti, veluti tela atque arma bellis reſervantur. Tacit. de Morib. Germ. § 29

commoners. Nevertheleſs, he that will believe the title of noblemen ſtill to belong to thoſe only, who are ſo by patent, may gueſs how well our wars would be managed, if they were left ſolely to ſuch as are ſo by that title. If this be approved, his majeſty may do well with his hundred and fifty noblemen, eminent in valour and military experience as they are known to be, to make ſuch wars as may fall upon him, and leave the deſpiſed commons, under the name of villains, to provide for themſelves, if the ſucceſs do not anſwer his expectations. But if the commons are as free as the nobles, many of them in birth equal to the patentees, in eſtate ſuperior to moſt of them; and if it is not only expected they ſhould aſſiſt him in wars with their perſons and purſes, but acknowledged by all, that the ſtrength and virtue of the nation is in them, it muſt be confeſſed, that they are true noblemen of England, and that all the privileges, antiently enjoyed by ſuch, muſt neceſſarily belong to them, ſince they perform the offices to which they were annexed. This ſhews how the nobility were juſtly ſaid to be almoſt infinite in number, ſo that no one place was able to contain them. The Saxon armies, that came over into this country to a wholſome and generative climate, might well increaſe in four or five ages to thoſe vaſt numbers, as the Franks, Goths, and others, had done in Spain, France, Italy, and other parts; and when they were grown ſo numerous, they found themſelves neceſſarily obliged to put the power into the hands of repreſentatives choſen by themſelves, which they had before exerciſed in their own perſons. But theſe two ways differing rather in form than eſſentially, the one tending to democracy, the other to ariſtocracy, they are equally oppoſite to the abſolute dominion of one man reigning for himſelf, and governing the nation as his patrimony; and equally aſſert the rights of the people to put the government into ſuch a form as beſt pleaſes themſelves. This was ſuitable to what they had practiſed in their own country: "de minoribus rebus principes conſultant, de majoribus omnes *." Nay, even theſe "ſmaller matters" cannot be ſaid properly to relate to the king; for he is but one, and the word "principes" is in the plural number, and can only ſignify ſuch principal men, as the ſame author ſays were choſen by the general aſſemblies to do juſtice, &c. and to each of them one hundred comites joined, not only to give advice, but authority to their actions. SECT. 28

The word "omnes," ſpoken by a Roman, muſt likewiſe be underſtood as it was uſed by them, and imports all the citizens, or ſuch as made up the body of the commonwealth. If he had ſpoken of Rome or Athens while they remained free, he muſt have uſed the ſame word (becauſe all thoſe, of whom the city conſiſted, had votes) how great ſoever the number of ſlaves or ſtrangers might have been. The Spartans are rightly ſaid to have gained, loſt, and recovered the lordſhip or principality of Greece. They were all lords in relation to their helots; and ſo were the Dorians in relation to that ſort of men, which under ſeveral names they kept, as the

* Ibid. § 11.

Saxons

CHAP. III Saxons did their villains, for the performance of the offices which they thought too mean for thoſe, who were ennobled by liberty, and the uſe of arms, by which the commonwealth was defended and enlarged. Though the Romans ſcorned to give the title of lord to thoſe, who had uſurped a power over their lives and fortunes, yet every one of them was a lord in relation to his own ſervants, and all together are often called "lords of the world*:" the like is ſeen almoſt every where. The government of Venice, having continued for many ages in the ſame families, has ennobled them all. No phraſe is more common in Switzerland, than "the lords of Bern," or "the lords of Zurich," and other places; though perhaps there is not a man among them, who pretends to be a gentleman, according to the modern ſenſe put upon that word. The ſtates of the United Provinces are called "high and mighty lords," and the ſame title is given to each of them in particular. Nay, the word heer, which ſignifies lord both in high and low Dutch, is as common as monſieur in France, ſignior in Italy, or ſennor in Spain; and is given to every one, who is not of a ſordid condition, but eſpecially to ſoldiers. And though a common ſoldier be now a much meaner thing than it was antiently, no man ſpeaking to a company of ſoldiers in Italian, uſes any other ſtyle than "ſigniori ſoldati:" and the like is done in other languages. It is not therefore to be thought ſtrange, if the Saxons, who in their own country had ſcorned any other employment than that of the ſword, ſhould think themſelves farther ennobled, when by their arms they had acquired a great and rich country, and driven out or ſubdued the former inhabitants. They might well diſtinguiſh themſelves from the villains they brought with them, or the Britons they had enſlaved. They might well be called "magnates, proceres regni, nobiles, Angliae "nobilitas, barones;" and the aſſemblies of them juſtly called "concilium "regni generale, univerſitas totius Angliae nobilium, univerſitas baron-"agii," according to the variety of times, and other occurrences. We have ſuch footſteps remaining of the name of baron, as plainly ſhew the ſignification of it. The barons of London and the Cinque Ports are known to be only the freemen of thoſe places. In the petty court-barons, every man who may be of a jury is a baron. Theſe are noblemen; for there are noble nations as well as noble men in nations. The Mammelucs accounted themſelves to be all noble, though born ſlaves; and when they had ennobled themſelves by the uſe of arms, they looked upon the nobleſt of the Egyptians, as their ſlaves. Tertullian writing, not to ſome eminent men, but to the whole people of Carthage, calls them, "anti-"quitate nobiles, nobilitate felices†." Such were the Saxons, ennobled by a perpetual application to thoſe exerciſes that belong to noblemen, and an abhorrence to any thing that is vile and ſordid.

Leſt this ſhould ſeem far fetched to thoſe who pleaſe themſelves with cavilling, they are to know, that the ſame general councils are expreſſed,

* Romanos rerum dominos. Virg. Aen. l. 1, v. 286

† Principes ſemper Africae, viri Carthaginienſes, vetuſtate nobiles, novitate felices. Tert. de Pallio, § 1. Edit. Rigaltii.

by

by other authors, in other words. They are called "the general council SECT. 29
"of the biſhops, noblemen, counts, all the wiſe men, elders, and people, "of the whole kingdom," in the time of Ina*. In that of Edward the elder, "the great council of the biſhops, abbots, noblemen, and people†." William of Malmeſbury calls them, "the general ſenate and aſſembly of "the people‡." Sometimes they are in ſhort called "clergy and peo-"ple;" but all expreſs the ſame power, neither received from, nor limitable by kings, who are always ſaid to be choſen, or made, and ſometimes depoſed by them. William the Norman found and left the nation in this condition. Henry the ſecond, John, and Henry the third, who had nothing but what was conferred upon them by the ſame clergy and people, did ſo too. Magna Charta could give nothing to the people, who, in themſelves, had all; and only reduced into a ſmall volume the rights which the nation was reſolved to maintain; brought the king to confeſs, they were perpetually inherent, and time out of mind enjoyed, and to ſwear that he would no way violate them; if he did, he was, "ipſo facto," excommunicated; and, being thereby declared to be an execrable perjured perſon, they knew how to deal with him. This act has been confirmed by thirty parliaments; and the proceedings with kings, who have violated their oaths, as well before as after the time of Henry the third, which have been already mentioned, are ſufficient to ſhew, that England has always been governed by itſelf, and never acknowledged any other lord, than ſuch as they thought fit to ſet up.

SECTION XXIX

THE KING WAS NEVER MASTER OF THE SOIL.

Thoſe who without regard to truth reſolve to inſiſt upon ſuch points, as they think may ſerve their deſigns, when they find it cannot be denied, that the powers before-mentioned have been exerciſed by the Engliſh, and other nations, ſay, that they were the conceſſions of kings, who, being

* *Univerſi Angli*, qui tunc temporis extiterunt, uxores ſuas ceperunt de Britonum genere, et *Britones* uxores ſuas de illuſtri ſanguine et genere Anglorum, hoc eſt, de genere Saxonum. Hoc enim factum fuit per commune conſilium et aſſenſum omnium epiſcoporum et principum, procerum, comitum, et omnium ſapientum, ſeniorum, et populorum totius regni, et per praeceptum regis Inae. Vide Leges Edovardi regis, c. 35. Edit. Lambardi, p. 148. Spelm. Concil. vol. 1, p. 219

† A. D. 905, Plegmundus Cantuarienſis archiepiſcopus, unà cum rege magnifico, cognomento Edwardo Seniore, concilium magnum epiſcoporum, abbatum, fidelium, procerum, et populorum, in provinciâ Gewiſorum, i. e. in illâ parte Angliae quae in plagâ auſtrali ſita eſt fluminis Thameſis, convocavit. Mat. Parker De Antiq. Brit. Eccleſiae. c. 19, de Plegmundo. —— Rex magnificus Edwardus, et Plegmundus Cant. archiep. collegerunt concilium grande epiſcoporum, abbatum, et fidelium populorum, in provinciâ Gewiſeorum. Mat. Weſt. ſub ann. 905, p. 181

‡ Generalis ſenatûs et populi conventus. Will. Malmeſb. l. 3, p. 99. Vide ſuprà, p. 324

CHAP. III masters of the soil, might bestow parcels upon some persons, with such conditions as they pleased, retaining to themselves the supreme dominion of the whole: and, having already, as they think, made them the fountains of honour, they proceed to make them also the fountains of property; and, for proof of this, allege, that all lands, though held of mean lords, do by their tenures at last result upon the king, as the head from whom they are enjoyed. This might be of force, if it were true: but matters of the highest importance requiring a most evident proof, we are to examine, first, if it be possible; and in the next place, if it be true.

1. For the first: no man can give what he has not. Whoever therefore will pretend, that the king has bestowed this propriety, must prove, that he had it in himself. I confess, that the kings of Spain and Portugal obtained from the pope grants of the territories they possessed in the West-Indies; and this might be of some strength, if the pope, as vicar of Christ, had an absolute dominion over the whole earth; but if that fail, the whole falls to the ground, and he is ridiculously liberal of that, which no way belongs to him. My business is not to dispute that point; but, before it can have any influence upon our affairs, our kings are to prove, that they are lords of England upon the same title, or some other equivalent to it. When that is done, we shall know upon whom they have a dependence, and may at leisure consider, whether we ought to acknowledge, and submit to such a power, or give reasons for our refusal. But, there being no such thing in our present case, their property must be grounded upon something else, or, we may justly conclude, they have none.

In order to this, it is hardly worth the pains, to search into the obscure remains of the British histories. For when the Romans deserted our island, they did not confer the right they had, whether more or less, upon any man, but left the enjoyment of it to the poor remainders of the nation, and their own established colonies, who were grown to be one people with the natives. The Saxons came under the conduct of Hengist and Horsa, who seem to have been sturdy pirates; but did not, that I can learn, bear any characters in their persons, of the so much admired sovereign majesty, that should give them an absolute dominion or propriety, either in their own country, or any other they should set their feet upon. They came with about a hundred men; and, choosing rather to serve Vortigern, than to depend upon what they could get by rapine at sea, lived upon a small proportion of land, by him allotted to them *. Though this seems to be but a slender encouragement, yet it was enough to invite many others to follow their example and fortune; so that their number increasing, the

* Anno Gratiae 449, gens Anglorum sive Saxonum, à rege Vortigerno invitata, Britanniam tribus longis navibus advehetur; et in orientali parte insulae locum manendi à rege, quasi pro patriâ pugnatura, suscepit. Advenerunt de tribus Germaniae populis fortioribus, i. e. Saxonibus, Anglis, et Jutis. Mat. West. sub ann. 449. Will. Malmesb. p. 8. Chron. Saxon. sub ann. 449. —What number of men came into this island under the conduct of Hengist and Horsa, the Saxon annals do not inform us. As three ships were employed on that occasion, there must have been more than "a hundred," probably 1000, or 1500

county

county of Kent was given to them, under the obligation of ſerving the Britons in their wars. Not long after, lands in Northumberland were beſtowed upon another company of them, with the ſame condition. This was all the title they had to what they enjoyed, till they treacherouſly killed four hundred and ſixty*, or, as William of Malmeſbury ſays, three hundred principal men of the Britiſh nobility†, and made Vortigern priſoner, who had been ſo much their benefactor, that he ſeems never to have deſerved well, but from them, and to have incenſed the Britons by the favour he ſhewed them, as much as by the worſt of his vices. And, certainly, actions of this kind, compoſed of falſhood and cruelty, can never create a right, in the opinion of any better men than Filmer and his diſciples, who think that the power only is to be regarded, and not the means by which it is obtained. But though it ſhould be granted, that a right had been thus acquired, it muſt accrue to the nation, not to Hengiſt and Horſa. If ſuch an acquiſition be called a conqueſt, the benefit muſt belong to thoſe that conquered. This was not the work of two men; and thoſe who had been free at home can never be thought to have left their own country, to fight as ſlaves, for the glory and profit of two men in another. It cannot be ſaid, that their wants compelled them; for their leaders ſuffered the ſame, and could not be relieved, but by their aſſiſtance. And whether their enterprize was good or bad, juſt or unjuſt, it was the ſame to all: no one man could have any right, peculiar to himſelf, unleſs they who gained it did confer it upon him: and it is no way probable, that they, who in their own country had kept their princes within very narrow limits, as has been proved, ſhould reſign themſelves, and all they had, as ſoon as they came hither. But we have already ſhewn, that they always continued moſt obſtinate defenders of their liberty, and the government to which they had been accuſtomed; that they managed it by themſelves, and acknowledged no other laws than their own. Nay, if they had made ſuch a reſignation of their right, as was neceſſary to create one in their leaders, it would be enough to overthrow the propoſition; for it is not then the leader that gives to the people, but the people to the leader. If the people had not a right to give what they did give, none was conferred upon the receiver: if they had a right, he that ſhould pretend to derive a benefit from thence muſt prove the grant, that the nature and intention of it may appear. SECT. 29

To the ſecond. If it be ſaid, that records teſtify all grants to have been originally from the king, I anſwer, that though it were confeſſed

* Hengiſtus illicò Vortigernum per pallium detinuit. Caeteros autem aſtantes principes, circiter quadringentos ſexaginta viros, barones inclytos, et conſules jugulârunt. Mat. Weſt. ſub ann. 461

† Hengiſtus vitio quodam humani ingenii, ut quo plus habeas, plus ambias, fraude ſubornatâ, generum Vortigernum ad convivium cum 300 ſuorum invitat: cumque frequentioribus poculis invitatos ad tumultum animaſſet, et unumquemque ex induſtriâ ſalſâ dicacitate perſtringeret, primò ad jurgia, mox ad arma ventum eſt. Ita Britones ad unum jugulati animas inter vina evomuere. Rex ipſe captus, datis tribus provinciis, libertatem redemit. Will. Malmeſb. l. 1, c. 1

CHAP. III (which I abſolutely deny, and affirm that our rights and liberties are innate, inherent, and enjoyed time out of mind, before we had kings) it could be nothing to the queſtion, which is concerning reaſon and juſtice; and, if they are wanting, the defect can never be ſupplied by any matter of fact, though ever ſo clearly proved. Or, if a right be pretended to be grounded upon a matter of fact, the thing to be proved is, that the people did really confer ſuch a right upon the firſt, or ſome other kings: and, if no ſuch thing do appear, the proceedings of one or more kings, as if they had it, can be of no value. But, in the preſent caſe, no ſuch grant is pretended to have been made, either to the firſt, or to any of the following kings: the right they had not, their ſucceſſors could not inherit, and conſequently cannot have it, or, at moſt, no better title to it, than that of uſurpation.

But, as they who inquire for truth ought not to deny or conceal any thing, I may grant that manors, &c. were enjoyed by tenure from kings; but that will no way prejudice the cauſe I defend, nor ſignify more, than that the countries which the Saxons had acquired were to be divided among them; and, to avoid the quarrels that might ariſe, if every man took upon him to ſeize what he could, a certain method of making the diſtribution was neceſſarily to be fixed; and it was fit, that every man ſhould have ſomething in his own hands, to juſtify his title to what he poſſeſſed, according to which controverſies ſhould be determined. This muſt be teſtified by ſomebody, and no man could be ſo fit, or of ſo much credit, as he who was chief among them; and this is no more than is uſual in all the ſocieties of the world. The mayor of every corporation, the ſpeaker or clerk of the houſe of peers, or houſe of commons, the firſt preſident of every parliament, or preſidial in France; the conſul, burgermeiſter, advoyer, or bailiff, in every free town of Holland, Germany, or Switzerland, ſign the public acts, that paſs in thoſe places. The dukes of Venice and Genoa do the like, though they have no other power, than what is conferred upon them, and, of themſelves, can do little or nothing. The grants of our kings are of the ſame nature, though the words "mero "motu noſtro" ſeem to imply the contrary; for kings ſpeak always in the plural number, to ſhew that they do not act for themſelves, but for the ſocieties over which they are placed; and all the veneration that is, or can be given to their acts, does not exalt them, but thoſe from whom their authority is derived, and for whom they are to execute. The tyrants of the Eaſt, and other barbarians, whoſe power is moſt abſolute, ſpeak in the ſingle number, as appears by the decrees of Nabuchodonoſor, Cyrus, Darius, and Ahaſuerus, recited in Scripture, with others that we hear of daily from thoſe parts: but, where-ever there is any thing of civility or regularity in government, the prince uſes the plural, to ſhew that he acts in a public capacity. From hence ſays Grotius, the rights of kings to ſend ambaſſadors, make leagues, &c. do ariſe: the confederacies made by them do not terminate with their lives, becauſe they are not for themſelves; they ſpeak not in their own perſons, but as repreſenting their people;

people: and "a king who is deprived of his kingdom, loſes the right of SECT. 30
"ſending ambaſſadors *," becauſe he can no longer ſpeak for thoſe, who, by their own conſent, or by a foreign force, are cut off from him. The queſtion is, not whether ſuch a one be juſtly or unjuſtly deprived (for that concerns only thoſe who did it, or ſuffer it) but whether he can oblige the people; and it is ridiculous for any nation to treat with a man, that cannot perform what ſhall be agreed, or for him to ſtipulate that which can oblige, and will be made good only by himſelf.

But though much may be left to the diſcretion of kings in the diſtribution of lands, and the like, yet it no way diminiſhes the right of the people, nor confers any upon them, otherwiſe to diſpoſe of what belongs to the public, than may tend to the common good, and the accompliſhment of thoſe ends, for which they are entruſted. Nay, if it were true, that a conquered country did belong to the crown, the king could not diſpoſe of it, becauſe it is annexed to the office, and not alienable by the perſon. This is not only found in regular mixed monarchies (as in Sweden, where the grants made by the laſt kings have been lately reſcinded by the general aſſembly of eſtates, as contrary to law) but even in the moſt abſolute, as in France, where the preſent king, who has ſtretched his power to the utmoſt, has lately acknowledged, that he cannot do it; and, according to the known maxim of the ſtate, that the demeſnes of the crown, which are deſigned for the defraying of public charges, cannot be alienated, all the grants made within the laſt fifteen years have been annulled; even thoſe who had bought lands of the crown have been called to account, and the ſums given being compared with the profits received, and a moderate intereſt allowed to the purchaſers, ſo much of the principal as remained due to them has been repaid, and the lands reſumed.

SECTION XXX

HENRY THE FIRST WAS KING OF ENGLAND BY AS GOOD A TITLE AS ANY OF HIS PREDECESSORS OR SUCCESSORS.

Having made it appear, as I ſuppoſe, that the antient nobility of England was compoſed of ſuch men as had been ennobled by bearing arms in the defence or enlargement of the commonwealth; that the dukes, earls, &c. were thoſe who commanded them; that they and their dependents received lands for ſuch ſervices, under an obligation of continuing to render the like, and according to their ſeveral degrees and proportions, to provide and maintain horſes, arms, and men, for the ſame uſes; it cannot be denied, but that they were ſuch gentlemen, and lords of manors, as we now call commoners, together with the freeholders, and ſuch as in war-

* Reges qui bello ſolenni victi, regnoque exuti ſunt, cum aliis regni bonis et jus legandi perdiderunt. Grot. de Jure Belli. l. 2, c. 18, § 2.

were

CHAP. III were found moſt able to be their leaders. Of theſe the micel-gemotes, wittena-gemotes, and other public aſſemblies, did conſiſt; and nothing can be more abſurd than to aſſign the names and rights of duke, earl, and viſcount, which were names of offices, to thoſe who have not the offices, and are no way fit for them. If our author therefore had ſaid, that ſuch as theſe, who had always compoſed the great councils of our nation, had, in favour of Henry the firſt, beſtowed the crown upon him, as they had done upon his father and brother, I ſhould agree with him: but it is the utmoſt extravagance to ſay, that he who had neither title nor poſſeſſion ſhould give the power to thoſe, who had always been in the poſſeſſion of it, and exerciſed it in giving to him whatever he had. But I moſt wonder he ſhould ſo far forget himſelf, as to call this Henry a uſurper, and detract from the validity of his acts, becauſe he had no title; whereas there neither is, was, nor can be, a uſurper, if there be any truth in his doctrine: for he plainly tells us, we are only to look to the power, and not at all to the means and ways by which it is obtained; and making no difference between a king and a tyrant injoins an equal ſubmiſſion to the commands of both. If this were only a ſlip of his pen, and he did really take this Henry to be a uſurper, becauſe he had not a good title, I ſhould deſire to know the marks by which a lawful king is diſtinguiſhed from a uſurper, and in what a juſt title does conſiſt. If he place it in an hereditary ſucceſſion, we ought to be informed, whether this right muſt be deduced from one univerſal lord of mankind, or from a particular lord of every people. If from the univerſal lord, the ſame deſcent that gives him a right to the dominion of any one country, enſlaves the whole world to him. If from the particular lord of one place, proof muſt be given how he came to be ſo: for if there was a defect in the firſt, it can never be repaired, and the poſſeſſion is no more than a continued uſurpation. But having already proved the abſurdity of any pretence to either, I ſhall forbear the repetition, and only ſay, that if the courſe of ſucceſſion may never be juſtly interrupted, the family of Meroveus could not have had any right to the crown of France; Pepin was a uſurper, if it muſt for ever have continued in the deſcendents of Meroveus; and Hugh Capet could have no title, if the race of Pepin might not be diſpoſſeſſed. I leave our author to diſpute this point with the king of France; and when he has ſo far convinced him that he is a uſurper, as to perſuade him to reſign his crown to the houſe of Auſtria, claiming from Pharamond, or to that of Lorrain, as deſcended from Pepin, I can give him half a dozen more knots, which will not be with leſs difficulty untied, and which, inſtead of eſtabliſhing the titles of ſuch kings as are known to us, will overthrow them all, unleſs a right be given to uſurpation, or the conſent of a people do confer it.

But if there be ſuch a thing as a uſurper, and a rule by which men may judge of uſurpation, it is not only lawful, but neceſſary, to examine the titles of ſuch as go under the name of kings, that we may know whether they are truly ſo or not, leſt through ignorance we chance

to give the veneration and obedience that is due to a king, to one who is not a king, and deny it to him, who by an uninterruptible line of deſcent is our natural lord, and thereby prefer the worſt of men, and our moſt bitter enemy, before the perſon we ought to look upon as our father: and if this prove dangerous to one or more kings, it is our author's fault, not mine. SECT. 30

If there be no uſurper, nor rule of diſtinguiſhing him from a lawful prince, Filmer is the worſt of all triflers and impoſtors, who grounds his arguments in the moſt ſerious matters upon what he eſteems to be falſe. But the truth is, he ſeems to have ſet himſelf againſt humanity and common ſenſe, as much as againſt law and virtue. And if he who ſo frequently contradicts himſelf can be ſaid to mean any thing, he would authorize rapine and murder, and perſuade us to account thoſe to be rightful kings, who, by treachery, and other unjuſt means, overthrow the right of deſcent, which he pretends to eſteem ſacred, as well as the liberties of nations, which by better judges are thought to be ſo; and gives the odious name of uſurpation to the advancement of one who is made king by the conſent of a willing people.

But if Henry the firſt were a uſurper, I deſire to know whether the ſame name belongs to all our kings, or which of them deſerves a better, that we may underſtand whoſe acts ought to be reputed legal, and to whoſe deſcent we owe veneration, or whether we are wholly exempted from all: for I cannot ſee a poſſibility of fixing the guilt of uſurpation upon Henry the firſt, without involving many, if not all our kings, in the ſame.

If his title was not good, becauſe his brother Robert was ſtill living, that of Rufus is by the ſame reaſon overthrown; and William their father, being a baſtard, could have none. This fundamental defect could never be repaired; for the ſucceſſors could inherit no more than the right of the firſt, which was nothing. Stephen could deduce no title either from Norman or Saxon; whatever Henry the ſecond pretended muſt be from his mother Maud, and any other might have been preferred before her as well as he. If her title was from the Normans, it muſt be void, ſince they had none, and the ſtory of Edgar Atheling is too impertinent to deſerve mention. But, however, it could be of no advantage to her: for David king of Scotland, brother to her mother, from whom only her title could be derived, was then alive with his ſon Henry, who, dying not long after, left three ſons, and three daughters, whoſe poſterity, being diſtributed into many families of Scotland, remains to this day; and, if proximity of blood is to be conſidered, ought always to have been preferred before her, and her deſcendents, unleſs there be a law, that gives the preference to daughters before ſons. What right ſoever Henry the ſecond had, it muſt neceſſarily have periſhed with him, all his children having been begotten in manifeſt adultery on Eleanor of Gaſcony, during the life of Lewis king of France her firſt huſband. And nothing could be alleged to colour the buſineſs, but a diſpenſation from the pope directly againſt

CHAP. III againſt the law of God, and the words of our Saviour, who ſays, "that "a wife cannot be put away unleſs for adultery; and that he who mar- "rieth her that is put away committeth adultery." The pollution of this ſpring is not to be cured: but though it ſhould paſs unregarded, no one part of the ſucceſſion ſince that time has remained entire. John was preferred before Arthur his elder brother's ſon. Edward the third was made king by the depoſition of his father: Henry the fourth by that of Richard the ſecond. If the houſe of Mortimer or York had the right, Henry the fourth, fifth, and ſixth, were not kings, and all who claim under them have no title. However, Richard the third could have none; for the children of his elder brother the duke of Clarence were then living. The children of Edward the fourth may be ſuſpected of baſtardy; and though it may have been otherwiſe, yet that matter is not ſo clear, as things of ſuch importance ought to be; and the conſequence may reach very far. But, though that ſcruple were removed, it is certain, that Henry the ſeventh was not king in the right of his wife Elizabeth; for he reigned before and after her; and for his other titles we may believe Philip de Comines, who ſays, "he had neither croſs nor pile *." If Henry the eighth had a right in himſelf, or from his mother, he ſhould have reigned immediately after her death, which he never pretended, nor to ſucceed till his father was dead, thereby acknowledging he had no right but from him, unleſs the parliament and people can give it. The like may be ſaid of his children. Mary could have no title, if ſhe was a baſtard, begotten in inceſt; but if her mother's marriage was good, and ſhe legitimate, Elizabeth could have none.

Yet all theſe were lawful kings and queens; their acts continue in force to this day to all intents and purpoſes: the parliament and people made them to be ſo, when they had no other title. The parliament and people therefore have the power of making kings: thoſe who are ſo made are not uſurpers: we have had none but ſuch for more than ſeven hundred years. They were therefore lawful kings, or this nation has had none in all that time. And if our author like this concluſion, the account from whence it is drawn may without difficulty be carried as high as our Engliſh hiſtories do reach.

This being built upon the ſteady foundation of law, hiſtory, and reaſon, is not to be removed by any man's opinion; eſpecially by one, accompanied with ſuch circumſtances as Sir Walter Raleigh was in, during the laſt years of his life: and there is ſomething of baſeneſs, as well as prevarication, in turning the words of an eminent perſon, reduced to great difficulties, to a ſenſe no way agreeing with his former actions or writings, and no leſs tending to impair his reputation than to deceive others. Our author is highly guilty of both, in citing Sir Walter Raleigh to invalidate the great charter of our liberties, as "begun by uſurpation,

* Qui n'avoit ne croix, ne pile, ne nul droit, comme je crois, à la couronne d'Angleterre. Mem. de Phil. de Comines. l. 6, c. 9

"and

" and ſhewed to the world by rebellion *: " whereas no ſuch thing, nor SECT. 31
any thing like it in word or principle, can be found in the works that deſerve to go under his name. The dialogue in queſtion, with ſome other ſmall pieces publiſhed after his death, deſerves to be eſteemed ſpurious; or if, from a deſire of life, when he knew his head lay under the ax, he was brought to ſay things no way agreeing with what he had formerly profeſſed, they ought rather to be buried in oblivion, than produced to blemiſh his memory. But, that the public cauſe may not ſuffer by his fault, it is convenient the world ſhould be informed, that though he was a well qualified gentleman, yet his morals were no way exact, as appears by his dealings with the brave earl of Eſſex. And he was ſo well aſſiſted in his Hiſtory of the World, that an ordinary man, with the ſame helps, might have performed the ſame things. Neither ought it to be accounted ſtrange, if that which he wrote by himſelf had the tincture of another ſpirit, when he was deprived of that aſſiſtance, though his life had not depended upon the will of the prince, and he had never ſaid, that " the bonds of ſubjects to their kings ſhould always be wrought out of " iron, the bonds of kings unto ſubjects but with cobwebs †."

SECTION XXXI

FREE NATIONS HAVE A RIGHT OF MEETING, WHEN AND WHERE THEY PLEASE, UNLESS THEY DEPRIVE THEMSELVES OF IT.

A perverted judgment always leads men into a wrong way, and perſuades them to believe, that thoſe things favour their cauſe, which utterly overthrow it. For a proof of this, I deſire our author's words may be conſidered. " In the form of parliaments," ſays he, " inſtituted and " continued ſince Henry the firſt's time, is not to be found the uſage of " any natural liberty of the people; for all thoſe liberties that are claimed " in parliament are liberties of grace from the king, and not the liberties " of nature to the people: for if the liberty were natural, it would give " power to the multitude to aſſemble themſelves, when and where they

* " *Henry* the firſt, to content his vaſſals, gave them the Great Charter and the Charter of " Foreſts . . . He uſurped the kingdom, and therefore the better to aſſure himſelf againſt " Robert his elder brother, he flattered the nobility and people with thoſe charters . . . King " John, who confirmed them, had the like reſpect; for Arthur, duke of Bretagne, was the " undoubted heir of the crown, upon whom John uſurped . . . The charter of Henry " the firſt was left, in depoſito, in the hands of the archbiſhop of Canterbury for the time, " and ſo to his ſucceſſors. Stephen Langton ſhewed it to the barons, thereby encouraging " them to make war againſt the king . . . The king was forced to grant the Magna Charta " and Charta de Foreſtis, at ſuch time as he was environed with an army . . . Thus much " for the beginning of the Great Charter, which had firſt an obſcure birth from uſurpation, " and was, ſecondly, foſtered and ſhewed to the world by rebellion." Dial. on the Prerog. of Parliaments, republiſhed among the works of Sir W. Raleigh, in 1751.

† See Sir W. Raleigh's Dedic. of his Dial. on the Prerog. of Parliaments to king James.

CHAP. III

" pleaſe, to beſtow ſovereignty, and by pactions to limit and direct the " exerciſe of it." And I ſay, that nations, being naturally free, may meet, when and where they pleaſe; may diſpoſe of the ſovereignty, and may direct or limit the exerciſe of it, unleſs by their own act they have deprived themſelves of that right: and there could never have been a lawful aſſembly of any people in the world, if they had not had that power in themſelves. It was proved in the preceding ſection, that all our kings, having no title, were no more than what the nobility and people made them to be; that they could have no power but what was given to them, and could confer none except what they had received. If they can therefore call parliaments, the power of calling them muſt have been given to them, and could not be given by any who had it not in themſelves. The Iſraelites met together, and choſe Ehud, Gideon, Samſon, Jephthah, and others, to be their leaders, whom they judged fit to deliver them from their enemies. By the ſame right they aſſembled at Miſpeh to make war againſt the tribe of Benjamin, when juſtice was denied to be done againſt thoſe who had villainouſly abuſed the Levite's concubine. In the like manner, they would have made Gideon king, but he refuſed. In the ſame place they met, and choſe Saul to be their king. He being dead, the men of Judah aſſembled themſelves, and anointed David: not long after, all the tribes met at Hebron, made a contract with him, and received him as their king. In the ſame manner, though by worſe counſel, they made Abſalom king. And the like was attempted in favour of Sheba the ſon of Bichri, though they then had a king choſen by themſelves. When they found themſelves oppreſſed by the tributes that had been laid upon them by Solomon, they met at Sechem; and being diſpleaſed with Rehoboam's anſwer to their complaints, ten of the tribes made Jeroboam king. Jehu, and all the other kings of Iſrael, whether good or bad, had no other title than was conferred upon them by the prevailing part of the people, which could not have given them any, unleſs they had met together; nor could they have met together without the conſent and againſt the will of thoſe that reigned, unleſs the power had been in themſelves.

Where governments are more exactly regulated, the power of judging when it is fit to call the ſenate or people together is referred to one or more magiſtrates; as in Rome to the conſuls or tribunes, in Athens to the archons, and in Thebes to the Boeotarches: but none of them could have theſe powers, unleſs they had been given by thoſe who advanced them to the magiſtracies to which they were annexed; nor could they have been ſo annexed, if thoſe who created them had not had the right in themſelves. If the officers neglected their duty of calling ſuch aſſemblies when the public affairs required, the people met by their own authority, and puniſhed the perſon, or abrogated the magiſtracy; as appears in the caſe of the decemviri, and many others that might be alleged, if the thing were not ſo plain as to need no farther proof. The reaſon of this is, that they who inſtitute a magiſtracy beſt know whether the end of the inſtitution be

be rightly purſued or not: and all juſt magiſtracies being the ſame in eſſence, though differing in form, the ſame right muſt perpetually belong to thoſe who put the ſovereign power into the hands of one, a few, or many men, which is what our author calls the diſpoſal of the ſovereignty. Thus the Romans did when they created kings, conſuls, military tribunes, dictators, or decemviri: and it had been moſt ridiculous to ſay, that thoſe officers gave authority to the people to meet and chooſe them; for they who are choſen are the creatures of thoſe who chooſe, and are nothing more than others till they are choſen. The laſt king of Sweden, Charles Guſtavus, told a gentleman who was ambaſſador there, that the Swedes having made him king, when he was poor, and had nothing in the world, he had but one work to do, which was ſo to reign, that they might never repent of the good opinion they had conceived of him. They might therefore meet, and did meet to confer the ſovereignty upon him, or he could never have had it. For though the kingdom be hereditary to males or females, and his mother was ſiſter to the great Guſtavus, yet having married a ſtranger without the conſent of the eſtates, ſhe performed not the condition upon which women are admitted to the ſucceſſion; and thereby falling from her right, he pretended not to any. The act of his election declares he had none, and gives the crown to him, and the heirs of his body, with this farther declaration, that the benefit of his election ſhould no way extend to his brother prince Adolphus: and it is confeſſed by all the Swediſh nation, that if the king now reigning ſhould die without children, the eſtates would proceed to a new election. SECT. 31

It is rightly obſerved by our author, that if the people might meet, and give the ſovereign power, they might alſo direct and limit it; for they did meet in this and other countries, they did confer the ſovereign power, they did limit and direct the exerciſe; and the laws of each people ſhew in what manner and meaſure it is every where done. This is as certain in relation to kings, as any other magiſtrates. The commiſſion of the Roman dictators was, to take care "that the commonwealth might receive no detriment." The ſame was ſometimes given to the conſuls *. King Offa's confeſſion, that he was made king "to preſerve the public "liberty †," expreſſes the ſame thing. And Charles Guſtavus, who ſaid he had no other work, than to govern in ſuch a manner, that they who had made him king might not repent, ſhewed there was a rule which he ſtood obliged to follow, and an end which he was to procure, that he

* This commiſſion was frequently given to the conſuls; but ſeldom, if ever, to the dictators. — Tantum terrorem incuſſere patribus, ut (quae forma ſenatûs conſulti ultimae ſemper neceſſitatis habita eſt) Poſthumio alteri conſulum negotium daretur, videret, "ne "quid reſpublica detrimenti caperet." Liv. l. 3, c. 4. — Senatus decrevit, darent operam conſules, "ne quid reſpublica detrimenti caperet." Sall. Bell. Catil. § 30. — Conſules provideant "ne quid reſpublica detrimenti accipiat." Cic. Phil. 5, § 34. — Decrevit ſenatus, ut L. Opimius conſul videret, "ne quid reſpublica detrimenti caperet." Id. in Catil. orat. 1, § 4. Orat. pro Milone, § 70. Ad famil. l. 16, ep. 11. Caeſar de Bello Civ. l. 1, § 6

† In veſtrae libertatis tuitionem. Mat. Paris. in vitâ Offae ſecundi. Vide ſuprà, p. 321

CHAP. III might merit and preſerve their good opinion. This power of conferring the ſovereignty was exerciſed in France by thoſe who made Meroveus king, to the prejudice of the two grandchildren of Pharamond, ſons to Clodion; by thoſe who excluded his race, and gave the crown to Pepin; by thoſe who depoſed Lewis le Debonnaire and Charles le Gros; by thoſe who brought in five kings, that were either baſtards or ſtrangers, between him and Charles le Simple; by thoſe who rejected his race, and advanced Hugh Capet; by thoſe who made Henry the firſt king, to the prejudice of Robert his elder brother, and continued the crown in the race of Henry for ten generations, while the deſcendents of Robert were only dukes of Burgundy. The like was done in Caſtile and Arragon, by frequently preferring the younger before the elder brother; the deſcendents of females before thoſe of the male line in the ſame degree; the more remote in blood before the neareſt; and ſometimes baſtards before the legitimate iſſue. The ſame was done in England in relation to every king, ſince the coming in of the Normans, as I have ſhewn in the laſt ſection, and other places of this work.

That they who gave the ſovereignty might alſo circumſcribe and direct it is manifeſt, by the ſeveral ways of providing for the ſucceſſion inſtituted by ſeveral nations. Some are merely elective, as the empire of Germany, and the kingdom of Poland, to this day; the kingdom of Denmark till the year 1660; that of Sweden till the time of Guſtavus Ericſon, who delivered that nation from the oppreſſion of Chriſtiern the ſecond, the cruel king of the Danes *. In others the election was confined to one or more families, as the kingdom of the Goths in Spain to the Balthi and Amali. In ſome, the eldeſt man of the reigning family was preferred before the neareſt, as in Scotland before the time of Kenneth †. In other places the neareſt in blood is preferred before the elder, if more remote. In ſome, no regard is had to females, or their deſcendents, as in France and Turky. In others, they or their deſcendents are admitted, either ſimply, as well as males; or under a condition of marrying in the country, or with the conſent of the eſtates, as in Sweden. And no other reaſon can be given for this almoſt infinite variety of conſtitutions, than that they who made them would have it ſo; which could not be, if God and nature had appointed one general rule for all nations. For in that caſe, the kingdom of France muſt be elective, as well as that of Poland and the empire; or the empire and Poland hereditary, as that of France; daughters muſt ſucceed in France, as well as in England, or be excluded in England, as in France; and he that would eſtabliſh one, as the ordinance of God and nature, muſt of neceſſity overthrow all the reſt.

A farther exerciſe of the natural liberty of nations is diſcovered in the ſeveral limitations put upon the ſovereign power. Some kings, ſays Grotius, have the "ſummum imperium ſummo modo;" others, "modo non

* A. D. 1523. † Kenneth the third, who began his reign in 961. Vide Buchan. Rerum Scot. Hiſt. l. 6

non ſummo *." And among thoſe that are under limitations, the degrees, as to more or leſs, are almoſt infinite, as I have proved already by the example of Arragon, antient Germany, the Saxon kings, the Normans, the kings of Caſtile, the preſent empire, with divers others. And I may ſafely ſay, that the antient government of France was much of the ſame nature to the time of Charles the ſeventh, and Lewis the eleventh; but the work of emancipating themſelves, as they call it, begun by them, is now brought to perfection in a boundleſs elevation of the king's greatneſs and riches, to the unſpeakable miſery of the people. SECT. 31

It were a folly to think this variety proceeds from conceſſions of kings, who naturally delight in power, and hate that which croſſes their will. It might with more reaſon be imagined, that the Roman conſuls, who were brought up in liberty, who had contracted a love to their country, and were contented to live upon an equal foot with their fellow-citizens, ſhould confine the power of their magiſtracy to a year; or that the dukes of Venice ſhould be graciouſly pleaſed to give power to the Council of Ten to puniſh them capitally, if they tranſgreſſed the laws, than that kings ſhould put ſuch fetters upon their power, which they ſo much abhor; or that they would ſuffer them, if they could be eaſily broken. If any one of them ſhould prove ſo moderate, like Trajan, to command the prefect of the Praetorian guard to uſe the ſword for him, if he governed well, and againſt him, if he did not †, it would ſoon be reſcinded by his ſucceſſor: the law which has no other ſtrength than the act of one man, may be annulled by another. So that nothing does more certainly prove, that the laws made in ſeveral countries to reſtrain the power of kings, and variouſly to diſpoſe of the ſucceſſion, are not from them, than the frequent examples of their fury, who have expoſed themſelves to the greateſt dangers, and brought infinite miſeries upon the people, through the deſire of breaking them. It muſt therefore be concluded, that nations have power of meeting together, and of conferring, limiting, and directing the ſovereignty; or all muſt be grounded upon moſt manifeſt injuſtice and uſurpation.

No man can have a power over a nation otherwiſe than "de jure," or "de facto." He who pretends to have a power "de jure" muſt prove, that it is originally inherent in him, or his predeceſſor, from whom he inherits; or that it was juſtly acquired by him. The vanity of any pretence to an original right appears ſufficiently, I hope, from the proofs already given, that the firſt fathers of mankind had it not; or if they had, no man could now inherit the ſame, there being no man able to make good the genealogy that ſhould give him a right to the ſucceſſion. Beſides, the facility we have of proving the beginnings of all the families

* Quod autem monuimus, diſtinguendam eſſe ſummitatem imperii ab habendi plenitudine, adeò verum eſt, ut non modò pleraque imperia ſumma non plenè habeantur, ſed et multa non ſumma habeantur plenè. Grot. de Jure Belli, l. 1, c. 3, § 14

† Tibi iſtum ad munimentum mei committo, ſi rectè agam: ſin aliter, in me magis. Aur. Victor de Caeſaribus, c. 13. Xiphilini Epit. Dionis, l. 68, p. 778, Edit. Hanov. 1606.

that

CHAP. III that reign among us makes it as abſurd for any of them to pretend a perpetual right to dominion, as for any citizen of London, whoſe parents and birth we know, to ſay he is the very man Noah, who lived in the time of the flood, and is now four or five thouſand years old.

If the power were conferred on him or his predeceſſors, it is what we aſk; for the collation can be of no value, unleſs it be made by thoſe who had a right to do it; and the original right by deſcent failing, no one can have any over a free people but themſelves, or thoſe to whom they have given it.

If acquiſition be pretended, it is the ſame thing; for there can be no right to that which is acquired, unleſs the right of invading be proved; and that being done, nothing can be acquired except what belonged to the perſon that was invaded, and that only by him who had the right of invading. No man ever did or could conquer a nation by his own ſtrength: no man therefore could ever acquire a perſonal right over any; and if it was conferred upon him by thoſe who made the conqueſt with him, they were the people that did it. He can no more be ſaid to have the right originally in and from himſelf, than a magiſtrate of Rome or Athens immediately after his creation; and having no other at the beginning, he can have none to eternity; for the nature of it muſt refer to the original, and cannot be changed by time.

Whatever therefore proceeds not from the conſent of the people muſt be "de facto" only, that is, void of all right; and it is impoſſible there ſhould not be a right of deſtroying that which is grounded upon none: and by the ſame rule that one man enjoys what he gained by violence, another may take it from him. Cyrus overthrew the Aſſyrians and Babylonians, Alexander the Medes and Perſians; and if they had no right of making war upon thoſe nations, the nations could not but have a right of recovering all that had been unjuſtly taken from them, and avenging the evils they had ſuffered. If the cauſe of the war was originally juſt, and not corrupted by an intemperate uſe of the victory, the conquered people was perhaps obliged to be quiet; but the conquering armies, that conferred upon their generals what they had taken from their enemies, might as juſtly expect an account of what they had given, and that it ſhould be employed according to the intention of the givers, as the people of any city might do from their regularly created magiſtrates; becauſe it was as impoſſible for Cyrus, Alexander, or Caeſar, to gain a power over the armies they led, without their conſent, as for Pericles, Valerius, or any other diſarmed citizen, to gain more power in their reſpective cities than was voluntarily conferred upon them. And I know no other difference between kingdoms ſo conſtituted by conquering armies, and ſuch as are eſtabliſhed in the moſt orderly manner, than that the firſt uſually incline more to war and violence, the latter to juſtice and peace. But there have not been wanting many of the firſt ſort, eſpecially the nations coming from the north, who were no leſs exact in ordaining that which tended to the preſervation of liberty, nor leſs ſevere in ſeeing it punctually performed,

performed, than the moſt regular commonwealths that ever were in the world. And it can with no more reaſon be pretended, that the Goths received their privileges from Alan or Theodoric, the Francs from Pharamond or Meroveus, and the Engliſh from Ina or Ethelred, than that the liberty of Athens was the gift of Themiſtocles or Pericles, that the empire of Rome proceeded from the liberality of Brutus or Valerius, and that the commonwealth of Venice, at this day, ſubſiſts by the favour of the Contarini or Moroſini: which muſt reduce us to matter of right, ſince that of fact, void of right, can ſignify nothing. SECT. 32

SECTION XXXII

THE POWERS OF KINGS ARE SO VARIOUS, ACCORDING TO THE CONSTITUTIONS OF SEVERAL STATES, THAT NO CONSEQUENCE CAN BE DRAWN TO THE PREJUDICE OR ADVANTAGE OF ANY ONE, MERELY FROM THE NAME.

In oppoſition to what is above ſaid, ſome allege the name of king, as if there were a charm in the word; and our author ſeems to put more weight upon it, than in the reaſons he brings to ſupport his cauſe. But that we may ſee there is no efficacy in it, and that it conveys no other right than what particular nations may annex to it, we are to conſider,

1. That the moſt abſolute princes that are or have been in the world never had the name of king; whereas it has been frequently given to thoſe whoſe powers have been very much reſtrained. The Caeſars were never called kings, till the ſixth age of Chriſtianity. The caliphs and ſoldan of Egypt and Babylon, the Great Turk, the cham of Tartary, or the Great Mogul, never took that name, nor any other of the ſame ſignification. The czar of Moſcovy has it not, though he is as abſolute a monarch, and his people as miſerable ſlaves, as any in the world. On the other ſide, the chief magiſtrates of Rome and Athens for ſome time, thoſe of Sparta, Arragon, Sweden, Denmark, and England, "who could "do nothing but by law," have been called kings. This may be enough to ſhew, that a name being no way eſſential, what title ſoever is given to the chief magiſtrate, he can have no other power than the laws and cuſtoms of his country do give, or the people confer upon him.

2. The names of magiſtrates are often changed, though the power continue to be the ſame; and the powers are ſometimes altered though the name remain. When Octavius Caeſar, by the force of a mad corrupted ſoldiery, had overthrown all law and right, he took no other title in relation to military affairs than that of "imperator," which in the time of liberty was by the armies often given to praetors and conſuls. In civil matters he was, as he pretended, content with the power of tribune:

CHAP. III bune*: and the like was obſerved in his ſucceſſor, who to new-invented uſurpations "gave old and approved names†." On the other ſide, thoſe titles, which have been rendered odious and execrable by the violent exerciſe of an abſolute power, are ſometimes made popular by moderate limitations; as in Germany, where, though the monarchy ſeem to be as well tempered as any, the princes retain the ſame names of "imperator," "Caeſar," and "Auguſtus," as thoſe had done, who by the exceſs of their rage and fury had deſolated and corrupted the beſt part of the world.

Sometimes the name is changed, though the power in all reſpects continue the ſame. The lords of Caſtile had for many ages no other title than that of count; and when the nobility and people thought good, they changed it to that of king‡, without any addition to the power.

The ſovereign magiſtrate in Poland was called duke till within the laſt two hundred years, when they gave the title of king to one of the Jagellan family§, which title has continued to this day, though without any change in the nature of the magiſtracy. And I preſume, no wiſe man will think, that if the Venetians ſhould give the name of king to their duke, it could confer any other power upon him, than he has already, unleſs more ſhould be conferred by the authority of the great council.

3. The ſame names, which in ſome places denote the ſupreme magiſtracy, in others are ſubordinate, or merely titular. In England, France, and Spain, dukes and earls are ſubjects: in Germany, the electors and princes who are called by thoſe names are little leſs than ſovereigns; and the dukes of Savoy, Tuſcany, Moſcovy, and others, acknowledge no ſuperior, as well as thoſe of Poland and Caſtile had none, when they went under thoſe titles. The ſame may be ſaid of kings. Some are ſubject to a foreign power, as divers of them were ſubject to the Perſian and Babylonian monarchs, who for that reaſon were called the kings of kings. Some alſo are tributaries. When the Spaniards firſt landed in America, the great kings of Mexico and Peru had many others under them. Threeſcore and ten kings gathered up meat under the table of Adonibezek¶. The Romans had many kings depending upon them. Herod and thoſe of his race were of this number; and the diſpute between him and his ſons Ariſtobulus and Alexander was to be determined by them; neither durſt he decide the matter till it was referred to him. But a right of appeal did ſtill remain, as appears by the caſe of St. Paul, when Agrippa was king. The kings of Mauritania, from the time of Maſiniſſa,

* Poſito triumviri nomine, conſulem ſe ferens, et ad tuendam plebem tribunitio jure contentum. Tacit. Annal. l. 1, § 2

† Proprium id Tiberio fuit, ſcelera nuper reperta priſcis verbis obtegere. Ibid. l. 4, § 19

‡ The firſt who was ſtiled king of Caſtile was Don Ferdinand, about the year 1036. Mariana, l. 9, c. 1. Saaved. Corona Gothica.

§ The Jagellan family aſcended the throne of Poland in 1386; but Premiſlaus II. aſſumed the title of king, and all the badges of royalty, in 1295.—Anno 1295, Praemiſlaus rex creatur . . . et mox ſolenni ritu inunctus, diadema regium accepit. Cromer De Orig. et Reb. Geſt. Polonorum, l. 11, § 1

¶ Judges, ch. 1, v. 7

were under the like dependence. Jugurtha went to Rome to juſtify him- SECT. 33
ſelf for the death of Micipſa. Juba was commanded by the Roman magiſtrates Scipio, Petreius, and Afranius. Another Juba was made king of the ſame country by Auguſtus, and Tiridates of Armenia by Nero: and infinite examples of this nature may be alleged. Moreover, their powers are variouſly regulated, according to the variety of tempers in nations and ages. Some have reſtrained the powers that by experience were found to be exorbitant; others have diſſolved the bonds that were laid upon them: and laws relating to the inſtitution, abrogation, enlargement, or reſtriction of the regal power, would be utterly inſignificant, if this could not be done. But ſuch laws are of no effect in any other country than where they are made. The lives of the Spartans did not depend upon the will of Ageſilaus or Leonidas, becauſe Nabuchodonoſor could kill or ſave whom he pleaſed. And though the king of Morocco may ſtab his ſubjects, throw them to the lions, or hang them upon tenterhooks, yet a king of Poland would probably be called to a ſevere account, if he ſhould unjuſtly kill a ſingle man.

SECTION XXXIII

THE LIBERTY OF A PEOPLE IS THE GIFT OF GOD AND NATURE.

If any man aſk, how nations come to have the power of doing theſe things, I anſwer, that liberty being only an exemption from the dominion of another, the queſtion ought not to be, how a nation can come to be free, but how a man comes to have a dominion over it; for till the right of dominion be proved and juſtified, liberty ſubſiſts, as ariſing from the nature and being of a man. Tertullian, ſpeaking of the emperors, ſays, "ab eo imperium, à quo ſpiritus*;" and we, taking man in his firſt condition, may juſtly ſay, "ab eo libertas, à quo ſpiritus;" for no man can owe more than he has received. The creature having nothing, and being nothing but what the Creator makes him, muſt owe all to him, and nothing to any one from whom he has received nothing. Man therefore muſt be naturally free, unleſs he be created by another power than we have yet heard of. The obedience due to parents ariſes from hence, in that they are the inſtruments of our generation; and we are inſtructed by the light of reaſon, that we ought to make great returns to thoſe from whom under God we have received all. When they die, we are their heirs, we enjoy the ſame rights, and devolve the ſame to our poſterity. God only, who conffers this right upon us, can deprive us of it: and we can no way underſtand that he does ſo, unleſs he had ſo declared by

* Indè eſt imperator, undè et homo antequam imperator + indè poteſtas illi, undè et ſpiritus. Tert. Apol. § 30, p. 27

CHAP. III expreſs revelation, or had ſet ſome diſtinguiſhing marks of dominion and ſubjection upon men; and, as an ingenious perſon not long ſince ſaid, cauſed ſome to be born with crowns upon their heads, and all others with ſaddles upon their backs. This liberty therefore muſt continue, till it be either forfeited or willingly reſigned. The forfeiture is hardly comprehenſible in a multitude, that is not entered into any ſociety; for as they are all equal, and "equals can have no right over each other*," no man can forfeit any thing to one, who can juſtly demand nothing, unleſs it may be by a perſonal injury, which is nothing to this caſe; becauſe where there is no ſociety, one man is not bound by the actions of another. All cannot join in the ſame act, becauſe they are joined in none; or if they ſhould, no man could recover, much leſs tranſmit the forfeiture; and not being tranſmitted, it periſhes, as if it had never been, and no man can claim any thing from it.

It will be no leſs difficult to bring reſignation to be ſubſervient to our author's purpoſe; for men could not reſign their liberty, unleſs they naturally had it in themſelves. Reſignation is a public declaration of their aſſent to be governed by the perſon to whom they reſign; that is, they do by that act conſtitute him to be their governor. This neceſſarily puts us upon the inquiry, why they do reſign, how they will be governed, and proves the governor to be their creature; and the right of diſpoſing the government muſt be in them, or they who receive it can have none. This is ſo evident to common ſenſe, that it were impertinent to aſk who made Carthage, Athens, Rome, or Venice, to be free cities. Their charters were not from men, but from God and nature. When a number of Phoenicians had found a port on the coaſt of Africa, they might perhaps agree with the inhabitants for a parcel of ground; but they brought their liberty with them. When a company of Latins, Sabines, and Tuſcans, met together upon the banks of the Tiber, and choſe rather to build a city for themſelves, than to live in ſuch as were adjacent, they carried their liberty in their own breaſts, and had hands and ſwords to defend it. This was their charter; and Romulus could confer no more upon them, than Dido upon the Carthaginians. When a multitude of barbarous nations infeſted Italy, and no protection could be expected from the corrupted and periſhing empire, ſuch as agreed to ſeek a place of refuge in the ſcattered iſlands of the Adriatic gulf had no need of any man's authority, to ratify the inſtitution of their government. They who were the formal part of the city, and had built the material, could not but have a right of governing it as they pleaſed, ſince, if they did amiſs, the hurt was only to themſelves. It is probable enough, that ſome of the Roman emperors, as lords of the ſoil, might have pretended to a dominion over them, if there had been any colour for it: but nothing of that kind appearing in thirteen hundred years, we are not like to hear of any ſuch cavils. It is agreed by mankind, that ſubjection and protection are relative; and that

* Par in parem non habet imperium. Bract. l. 1, c. 8, fol. 5

he

he who cannot protect thoſe that are under him in vain pretends to a SECT. 33
dominion over them. The only ends for which governments are conſtituted, and obedience rendered to them, are the obtaining of juſtice and protection; and they who cannot provide for both give the people a right of taking ſuch ways as beſt pleaſe themſelves, in order to their own ſafety.

The matter is yet more clear in relation to thoſe who never were in any ſociety, as at the beginning, or renovation of the world after the flood; or who, upon the diſſolution of the ſocieties to which they did once belong, or by ſome other accident, have been obliged to ſeek new habitations. Such were thoſe who went from Babylon upon the confuſion of tongues; thoſe who eſcaped from Troy when it was burnt by the Grecians; almoſt all the nations of Europe, with many of Aſia and Africa, upon the diſſolution of the Roman empire. To which may be added a multitude of northern nations, which, when they had increaſed to ſuch numbers, that their countries could no longer nouriſh them, or becauſe they wanted ſkill to improve their lands, were ſent out to provide for themſelves; and having done ſo, did erect many kingdoms and ſtates, either by themſelves, or in union and coalition with the antient inhabitants.

It is in vain to ſay, that where-ever they came, the land did belong to ſomebody; and that they who came to dwell there muſt be ſubject to the laws of thoſe, who were lords of the ſoil: for that is not always true in fact. Some come into deſart countries that have no lord; others into ſuch as are thinly peopled, by men who, knowing not how to improve their land, do either grant part of it upon eaſy terms to the new comers, or grow into a union with them in the enjoyment of the whole: and hiſtories furniſh us with infinite examples of this nature.

If we will look into our own original, without troubling ourſelves with the ſenſeleſs ſtories of Samothes the ſon of Japhet *, and his magicians, or the giants begotten by ſpirits upon the thirty daughters of Danaus ſent from Phoenicia in a boat without ſail, oars, or rudder, we ſhall find, that when the Romans abandoned this iſland, the inhabitants were left to a full liberty of providing for themſelves: and whether we deduce our original from them, or the Saxons, or from both, our anceſtors were perfectly free; and the Normans having inherited the ſame right when they came to be one nation with the former, we cannot but continue ſo ſtill, unleſs we have enſlaved ourſelves.

Nothing is more contrary to reaſon, than to imagine this. When the fierce barbarity of the Saxons came to be ſoftened by a more gentle climate, the arts and religion they learned taught them to reform their manners, and better enabled them to frame laws for the preſervation of their liberty, but no way diminiſhed their love to it. And though the Normans might deſire to get the lands of thoſe who had joined with Harold, and of others,

* Samothes, qui et Dis, Celtas colonias fundavit. Beroſi Antiq. ab Annio Viterbenſi. l. 5, § 1. — Samothes fuit frater Comeri atque Tubalis ex Japeto patre, à quo primùm Britones, indè Galli Samothei dicti fuerunt. Ibid. in comment. Annii. Seldeni Janus Anglorum, c. 1.

CHAP. III into their hands, yet when they were ſettled in the country, and by marriages united to the antient inhabitants, they became true Engliſhmen, and no leſs lovers of liberty, and reſolute defenders of it, than the Saxons had been. There was then neither conquering Norman, nor conquered Saxon, but a great and brave people compoſed of both, united in blood and intereſt in the defence of their common rights, which they ſo well maintained, that no prince ſince that time has too violently encroached upon them, who, as the reward of his folly, has not lived miſerably, and died ſhamefully.

Such actions of our anceſtors do not, as I ſuppoſe, ſavour much of the ſubmiſſion which patrimonial ſlaves do uſually render to the will of their lord. On the contrary, whatever they did was by a power inherent in themſelves to defend that liberty in which they were born. All their kings were created upon the ſame condition, and for the ſame ends. Alfred acknowledged he found and left them perfectly free; and the confeſſion of Offa, that they had not made him king for his own merits, but for the defence of their liberty, comprehends all that were before and after him. They well knew how great the honour was, to be made head of a great people; and rigorouſly exacted the performance of the ends for which ſuch a one was elevated, ſeverely puniſhing thoſe who baſely and wickedly betrayed the truſt repoſed in them, and violated all that is moſt ſacred among men; which could not have been, unleſs they were naturally free; for the liberty that has no being, cannot be defended.

SECTION XXXIV

NO VENERATION PAID, OR HONOUR CONFERRED UPON A JUST AND LAWFUL MAGISTRATE, CAN DIMINISH THE LIBERTY OF A NATION.

Some have ſuppoſed, that though the people be naturally free, and magiſtrates created by them, they do by ſuch creations deprive themſelves of that natural liberty; and that the names of "king, ſovereign lord," and "dread ſovereign," being no way conſiſtent with liberty, they who give ſuch titles do renounce it. Our author carries this very far, and lays great weight upon the ſubmiſſive language uſed by the people, when they "humbly crave, that his majeſty would be pleaſed to grant them their "accuſtomed freedom of ſpeech, and acceſs to his perſon;" and "give "the name of ſupplications and petitions to the addreſſes made to him:" whereas he anſwers in the haughty language of "le roi le veut, le roi "s'aviſera," and the like. But they who talk at this rate, ſhew, that they neither underſtand the nature of magiſtracy, nor the practice of nations. Thoſe who have lived in the higheſt exerciſe of their liberty, and have been moſt tenacious of it, have thought no honour too great for

ſuch magiſtrates as were eminent in the defence of their rights, and were SECT. 34.
ſet up for that end. The name of dread ſovereign might juſtly have been given to a Roman dictator, or conſul; for they had the ſovereign authority in their hands, and power ſufficient for its execution. Whilſt their magiſtracy continued, they were a terror to the ſame men, whoſe axes and rods had been a terror to them the year or month before, and might be ſo again the next. The Romans thought they could not be guilty of exceſs in carrying the power and veneration due to their dictator to the higheſt: and Livy tells us, that his "edicts were eſteemed ſacred *." I have already ſhewn, that this haughty people, who might have commanded, condeſcended to join with their tribunes in a petition to the dictator Papirius for the life of Quintus Fabius, who had fought a battle in his abſence, and without his order, though he had gained a great and memorable victory. The ſame Fabius, when conſul, was commended by his father Q. Fabius Maximus, for obliging him, by his lictors, to diſmount from his horſe, and to pay him the ſame reſpect that was due from others. The tribunes of the people, who were inſtituted for the preſervation of liberty, were alſo eſteemed ſacred and inviolable, as appears by that phraſe, "ſacroſancta tribunorum poteſtas †," ſo common in their antient writers. No man, I preſume, thinks any monarchy more limited, or more clearly derived from a delegated power, than that of the German emperors; and yet "ſacra Caeſarea majeſtas" is the public ſtile. Nay, the Hollanders at this day call their burgomaſters, though they ſee them ſelling herring or tar, "high and mighty lords," as ſoon as they are advanced to be of the thirty ſix, forty two, or forty eight magiſtrates of a ſmall town. It is no wonder therefore, if a great nation ſhould think it conducing to their own glory, to give magnificent titles, and uſe ſubmiſſive language, to that one man, whom they ſet up to be their head; eſpecially, if we conſider, that they came from a country where ſuch titles and language were principally invented.

Among the Romans and Grecians we hear nothing of majeſty, highneſs, ſerenity, and excellence, appropriated to a ſingle perſon; but receive them from Germany, and other northern countries. We find "majeſtas "populi Romani," and "majeſtas imperii ‡," in their beſt authors; but no man, ſpeaking to Julius or Auguſtus, or even to the vaineſt of their ſucceſſors, ever uſed thoſe empty titles, nor took upon themſelves the name of ſervants, as we do to every fellow we meet in the ſtreets. When ſuch ways of ſpeaking are once introduced they muſt needs ſwell to a more than ordinary height in all tranſactions with princes. Moſt of them naturally delight in vanity, and courtiers never ſpeak more truth, than

* Dictatoris edictum pro numine ſemper obſervatum. Liv. l. 8, c. 34.

† Tribunos vetere jurejurando plebis, cùm primùm eam poteſtatem creavit, ſacroſanctos eſſe. Liv. l. 3, c. 55. — Jure ſacroſanctae poteſtatis. Ibid. l. 29, c. 20

‡ Fit S. C. ut conſules operam darent, ut imperium populi Romani majeſtaſque conſervaretur. Cic. Orat. pro Rab. § 20. Me ex manibus impiis eripite, per majeſtatem imperii, per amicitiae fidem. Sall. Bell. Jug. § 26. Urbem non pro majeſtate imperii ornatam. Suet. in vitâ Auguſti, § 28

when

CHAP. III when they moſt extol their maſters, and aſſume to themſelves the names that beſt expreſs the moſt abject ſlavery. Theſe, being brought into mode, like all ill cuſtoms, increaſe by uſe; and then no man can omit them without bringing that hatred and danger upon himſelf, which few will undergo, except for ſomething that is evidently of great importance. Matters of ceremony and title, at the firſt, ſeem not to be ſo; and, being for ſome time neglected, they acquire ſuch ſtrength as not to be eaſily removed. From private uſage they paſs into public acts; and thoſe flatterers who gave a beginning to them, propoſing them in public councils, where too many of that ſort have always inſinuated themſelves, gain credit enough to make them paſs. This work was farther advanced by the church of Rome, according to their cuſtom of favouring that moſt, which is moſt vain and corrupt; and it has been uſual with the popes, and their adherents, liberally to gratify princes for ſervices rendered to the church, with titles that tended only to the prejudice of the people. Theſe poiſonous plants, having taken root, grew up ſo faſt, that the titles which, within the ſpace of a hundred years, were thought ſufficient for the kings and queens of England, have of late been given to Monk, and his honourable dutcheſs. New phraſes have been invented to pleaſe princes, or the ſenſe of the old perverted, as has happened to that of "le "roi s'aviſera:" and that, which was no more than a liberty to conſult with the lords upon a bill preſented by the commons, is by ſome men now taken for a right inherent in the king of denying ſuch bills as may be offered to him by the lords and commons; though the coronation-oath oblige him to hold, keep, and defend the juſt laws and cuſtoms, "quas "vulgus elegerit." And, if a ſtop be not put to this exorbitant abuſe, the words ſtill remaining in acts of parliament, which ſhew that their acts are our laws, may perhaps be alſo aboliſhed.

But though this ſhould come to paſs, by the ſlackneſs of the lords and commons, it could neither create a new right in the king, nor diminiſh that of the people: but it might give a better colour to thoſe who are enemies to their country, to render the power of the crown arbitrary, than any thing that is yet among us.

SECTION XXXV

THE AUTHORITY GIVEN BY OUR LAW TO THE ACTS PERFORMED BY A KING DE FACTO DETRACTS NOTHING FROM THE PEOPLE'S RIGHT OF CREATING WHOM THEY PLEASE.

They who have more regard to the prevailing power than to right, and lay great weight upon the ſtatute of Henry the ſeventh *, which authorizes the acts of a "king de facto," ſeem not to conſider, that thereby they deſtroy all the pretended right of inheritance; that he only is king "de "facto," who is received by the people; and that this reception could neither be of any value in itſelf, nor be made valid by a ſtatute, unleſs the people, and their repreſentatives, who make the ſtatute, had in themſelves the power of receiving, authorizing, and creating whom they pleaſe. For he is not king "de facto" who calls himſelf ſo, as Perkin or Simnel, but he who, by the conſent of the nation, is poſſeſſed of the regal power. If there were ſuch a thing in nature, as a natural lord over every country, and if the right muſt go by deſcent, it would be impoſſible for any other man to acquire it, or for the people to confer it upon him, and to give the authority to the acts of one, who neither is, nor can be, a king, which belongs only to him who has the right inherent in himſelf, and inſeparable from him. Neither can it be denied, that the ſame power which gives the validity to ſuch acts as are performed by one who is not a king, that belongs to thoſe of a true king, may alſo make him king: for the eſſence of a king conſiſts in the validity of his acts. And it is equally abſurd for one to pretend to be a king, whoſe acts as king are not valid, as that his own can be valid, if thoſe of another are; for then the ſame indiviſible right which our author, and thoſe of his principles, aſſert to be inſeparable from the perſon, would be at the ſame time exerciſed and enjoyed by two diſtinct and contrary powers.

Moreover, it may be obſerved, that this ſtatute was made, after frequent and bloody wars concerning titles to the crown; and whether the cauſe were good or bad, thoſe who were overcome were not only ſubject to be killed in the field, but afterwards to be proſecuted as traitors under

* The preamble of the ſtatute of 11 Hen. VII, c. 1—"The king our ſovereign lord "calling to remembrance the duty of allegiance of his ſubjects of this his realm, and that "they, by reaſon of the ſame, are bound to ſerve their prince and ſovereign lord for THE "TIME BEING in his wars, for the defence of him and the land, againſt every rebellion, "power, and might reared againſt him, and with him to enter and abide in ſervice in "battle, if caſe ſo require; and that for the ſame ſervice, what fortune ever fall by chance "in the ſame battle, againſt the mind and will of the prince (as in this land ſometime paſt "hath been ſeen) it is not reaſonable, but againſt all laws, reaſon, and good con"ſcience, that the ſaid ſubjects going with their ſovereign lord in wars, attending upon "him in his perſon, or being in other places by his commandment, within this land or "without, any thing ſhould loſe or forfeit, for doing their duty and ſervice of allegiance. "It be therefore ordained, enacted, &c."

the

CHAP. III the colour of law. He who gained the victory was always ſet up to be king by thoſe of his party; and he never failed to proceed againſt his enemies as rebels. This introduced a horrid ſeries of the moſt deſtructive miſchiefs. The fortune of war varied often; and I think it may be ſaid, that there were few, if any, great families in England, that were not either deſtroyed, or at leaſt ſo far ſhaken, as to loſe their chiefs, and many conſiderable branches of them: and experience taught, that inſtead of gaining any advantage to the public, in point of government, he for whom they fought ſeldom proved better than his enemy. They ſaw that the like might again happen, though the title of the reigning king ſhould be as clear, as deſcent of blood could make it. This brought things into an uneaſy poſture; and it is not ſtrange, that both the nobility and commonalty ſhould be weary of it. No law could prevent the dangers of battle; for he that had followers, and would venture himſelf, might bring them to ſuch a deciſion, as was only in the hand of God. But thinking no more could juſtly be required to the full performance of their duty to the king, than to expoſe themſelves to the hazard of battle for him, and not being anſwerable for the ſucceſs, they would not have that law which they endeavoured to ſupport, turned to their deſtruction by their enemies, who might come to be the interpreters of it. But as they could be exempted from this danger, only by their own laws, which could authorize the acts of a king without a title, and juſtify them for acting under him, it is evident, that the power of the law was in their hands, and that the acts of the perſon who enjoyed the crown, were of no value in themſelves. The law had been impertinent if it could have been done without law; and the intervention of the parliament uſeleſs, if the kings "de facto" could have given authority to their own acts. But if the parliament could make that to have the effect of law, which was not law, and exempt thoſe that acted according to it from the penalties of the law, and give the ſame force to the acts of one who is not king, as of one who is, they cannot but have a power of making him to be king, who is not ſo; that is to ſay, all depends entirely upon their authority.

Beſides, he is not king who aſſumes the title to himſelf, or is ſet up by a corrupt party; but he who, according to the uſages required in the caſe, is made king. If theſe are wanting, he is neither "de facto," nor "de jure," but "tyrannus ſine titulo." Nevertheleſs, this very man, if he comes to be received by the people, and placed in the throne, he is thereby made king "de facto." His acts are valid in law; the ſame ſervice is due to him as to any other; they who render it are in the ſame manner protected by the law; that is to ſay, he is truly king. If our author therefore do allow ſuch to be kings, he muſt confeſs that power to be good, which makes them ſo, when they have no right in themſelves. If he deny it, he muſt not only deny, that there is any ſuch thing as a king "de facto," which the ſtatute acknowledges, but that we ever had

any

any king in England; for we never had any other than ſuch, as I have proved before. SECT. 36

By the ſame means he will ſo unravel all the law, that no man ſhall know what he has, or what he ought to do or avoid; and will find no remedy for this, unleſs he allow, that laws made without kings are as good as thoſe made with them, which returns to my purpoſe: for they who have the power of making laws may by law make a king, as well as any other magiſtrate. And indeed the intention of this ſtatute could be no other than to ſecure mens perſons and poſſeſſions, and ſo far to declare the power of giving and taking away the crown to be in the parliament, as to remove all diſputes concerning titles, and to make him to be a legal king, whom they acknowledge to be king.

SECTION XXXVI

THE GENERAL REVOLT OF A NATION CANNOT BE CALLED A REBELLION.

As impoſtors ſeldom make lyes to paſs in the world, without putting falſe names upon things, ſuch as our author endeavour to perſuade the people they ought not to defend their liberties, by giving the name of rebellion to the moſt juſt and honourable actions, that have been performed for the preſervation of them; and, to aggravate the matter, tell us, that rebellion is like the ſin of witchcraft. But thoſe who ſeek after truth will eaſily find, that there can be no ſuch thing in the world as the rebellion of a nation againſt its own magiſtrates, and that rebellion is not always evil. That this may appear, it will not be amiſs to conſider the word, as well as the thing commonly underſtood by it, as it is uſed in an evil ſenſe.

The word is taken from the Latin "rebellare," which ſignifies no more than to renew a war. When a town or province had been ſubdued by the Romans, and brought under their dominion, if they violated their faith after the ſettlement of peace, and invaded their maſters, who had ſpared them, they were ſaid to rebel. But it had been more abſurd to apply that word to the people that roſe againſt the decemviri, kings, or other magiſtrates, than to the Parthians, or any of thoſe nations who had no dependence upon them; for all the circumſtances that ſhould make a rebellion were wanting, the word implying a ſuperiority in them againſt whom it is, as well as the breach of an eſtabliſhed peace. But though every private man, ſingly taken, be ſubject to the commands of the magiſtrate, the whole body of the people is not ſo; for he is by and for the people, and the people is neither by nor for him. The obedience due to him from private men is grounded upon and meaſured by the general law; and that law, regarding the welfare of the people, cannot ſet up the intereſt of one or a few men againſt the public. The whole body there-

CHAP. III fore of a nation cannot be tied to any other obedience than is conſiſtent with the common good, according to their own judgment: and having never been ſubdued, or brought to terms of peace with their magiſtrates, they cannot be ſaid to revolt or rebel againſt them, to whom they owe no more than ſeems good to themſelves, and who are nothing of or by themſelves, more than other men.

Again, the thing ſignified by rebellion is not always evil. For, though every ſubdued nation muſt acknowledge a ſuperiority in thoſe who have ſubdued them, and rebellion do imply a breach of the peace, yet that ſuperiority is not infinite; the peace may be broken upon juſt grounds, and it may be neither a crime nor infamy to do it. The Privernates had been more than once ſubdued by the Romans, and had as often rebelled. Their city was at laſt taken by Plautius the conſul, after their leader Vitruvius, and great numbers of their ſenate and people, had been killed. Being reduced to a low condition, they ſent ambaſſadors to Rome to deſire peace; where, when a ſenator aſked them what puniſhment they deſerved, one of them anſwered, "the ſame which they deſerve, who think themſelves worthy of liberty.*" The conſul then demanded, "what kind of peace might be expected from them, if the puniſhment ſhould be remitted." The ambaſſador anſwered, "if the terms you give be good, the peace will be obſerved by us faithfully and perpetually; if bad, it will ſoon be broken †." And though ſome were offended with the ferocity of the anſwer, yet the beſt part of the ſenate approved it, as "worthy of a man and a freeman ‡;" and confeſſing that no man or nation would continue under an uneaſy condition, longer than they were compelled by force, ſaid, "they only were fit to be made Romans, who thought nothing valuable but liberty §." Upon which they were all made citizens of Rome, and obtained whatever they had deſired.

I know not how this matter can be carried to a greater height; for if it were poſſible, that a people reſiſting oppreſſion and vindicating their own liberty could commit a crime, and incur either guilt or infamy, the Privernates did, who had been often ſubdued, and often pardoned; but, even in the judgment of their conquerors, whom they had offended, the reſolution they profeſſed of ſtanding to no agreement, impoſed upon them by neceſſity, was accounted the higheſt teſtimony of ſuch a virtue, as rendered them worthy to be admitted into a ſociety and equality with themſelves, who were the moſt brave and virtuous people of the world.

But if the patience of a conquered people may have limits, and they, who will not bear oppreſſion from thoſe who had ſpared their lives, may deſerve praiſe and reward from their conquerors, it would be madneſs to think, that any nation can be obliged to bear whatever their own magiſ-

* Eam quam merentur, qui ſe libertate dignos cenſent. Liv. l. 8, c. 21.
† Si bonam dederitis, et fidam et perpetuam; ſi malam, haud diuturnam. Ibid.
‡ Viri, et liberi vocem auditam. Ibid.
§ Eos demum, qui nihil præterquam de libertate cogitant, dignos eſſe, qui Romani fiant. Ibid.

trates

trates think fit to do againſt them. This may ſeem ſtrange to thoſe who talk ſo much of conqueſts made by kings, immunities, liberties, and privileges, granted to nations, oaths of allegiance taken, and wonderful benefits conferred upon them. But, having already ſaid as much as is needful concerning conqueſts, and that the magiſtrate, who has nothing except what is given to him, can only diſpenſe out of the public ſtock ſuch franchiſes and privileges as he has received for the reward of ſervices done to the country, and encouragement of virtue, I ſhall at preſent keep myſelf to the two laſt points. SECT. 36

Allegiance ſignifies no more (as the words "ad legem" declare) than ſuch an obedience as the law requires. But as the law can require nothing from the whole people, who are maſters of it, allegiance can only relate to particulars, and not to the whole nation. No oath can bind any other than thoſe who take it, and that only in the true ſenſe and meaning of it: but ſingle men only take this oath, and therefore ſingle men are only obliged to keep it. The body of a people neither does, nor can perform any ſuch act. Agreements and contracts have been made; as the tribe of Judah, and the reſt of Iſrael afterward, made a covenant with David, upon which they made him king; but no wiſe man can think, that the nation did thereby make themſelves the creature of their own creature.

The ſenſe alſo of an oath ought to be conſidered. No man can by an oath be obliged to any thing beyond, or contrary to the true meaning of it. Private men, who ſwear obedience "ad legem," ſwear no obedience "extra" or "contra legem." Whatever they promiſe or ſwear can detract nothing from the public liberty, which the law principally intends to preſerve. Though many of them may be obliged, in their ſeveral ſtations and capacities, to render peculiar ſervices to a prince, the people continue as free as the internal thoughts of a man, and cannot but have a right to preſerve their liberty, or avenge the violation.

If matters are well examined, perhaps not many magiſtrates can pretend to much upon the title of merit, eſpecially if they or their progenitors have continued long in office. The conveniences annexed to the exerciſe of the ſovereign power may be thought ſufficient to pay ſuch ſcores, as they grow due, even to the beſt: and as things of that nature are handled, I think it will hardly be found, that all princes can pretend to an irreſiſtible power upon the account of beneficence to their people. When the family of the Medici came to be maſters of Tuſcany, that country was, without diſpute, in men, money, and arms, one of the moſt flouriſhing provinces in the world, as appears by Machiavel's account, and the relation of what happened between Charles the eighth, and the magiſtrates of Florence, which I have mentioned already from Guicciardini. Now, whoever ſhall conſider the ſtrength of that country in thoſe days, together with what it might have been in the ſpace of a hundred and forty years, in which they have had no war, nor any other plague, than the extortion, fraud, rapine, and cruelty of their princes, and compare it with their preſent deſolate, wretched, and contemptible condition, may, if he pleaſe, think,

CHAP. III think, that much veneration is due to the princes that govern them; but will never make any man believe, that their title can be grounded upon beneficence. The like may be ſaid of the duke of Savoy, who, pretending, upon I know not what account, that every peaſant in the dutchy ought to pay him two crowns every half-year, did in 1662 ſubtilly find out, that in every year there were thirteen halves; ſo that a poor man, who had nothing but what he gained by hard labour, was through his fatherly care and beneficence forced to pay ſix and twenty crowns to his royal highneſs, to be employed in his diſcreet and virtuous pleaſures at Turin.

The condition of the ſeventeen provinces of the Netherlands (and even of Spain itſelf) when they fell to the houſe of Auſtria, was of the ſame nature: and I will confeſs as much as can be required, if any other marks of their government do remain, than ſuch as are manifeſt evidences of their pride, avarice, luxury, and cruelty.

France, in outward appearance, makes a better ſhew; but nothing in this world is more miſerable, than that people under the fatherly care of their triumphant monarch. The beſt of their condition is like aſſes and maſtiff-dogs, to work and fight, to be oppreſſed and killed for him; and thoſe among them, who have any underſtanding, well know, that their induſtry, courage, and good ſucceſs, is not only unprofitable, but deſtructive to them; and that, by increaſing the power of their maſter, they add weight to their own chains. And if any prince, or ſucceſſion of princes, have made a more modeſt uſe of their power, or more faithfully diſcharged the truſt repoſed in them, it muſt be imputed peculiarly to them, as a teſtimony of their perſonal virtue, and can have no effect upon others.

The rights therefore of kings are not grounded upon conqueſt: the liberties of nations do not ariſe from the grants of their princes: the oath of allegiance binds no private man to more than the law directs, and has no influence upon the whole body of every nation. Many princes are known to their ſubjects only by the injuries, loſſes, and miſchiefs, brought upon them. Such as are good and juſt ought to be rewarded for their perſonal virtue, but can confer no right upon thoſe who no way reſemble them; and whoever pretends to that merit muſt prove it by his actions. Rebellion, being nothing but a renewed war, can never be againſt a government that was not eſtabliſhed by war, and of itſelf is neither good nor evil, more than any other war; but is juſt or unjuſt, according to the cauſe or manner of it. Beſides, that rebellion, which by Samuel is compared to witchcraft *, is not of private men, or a people, againſt the prince, but of the prince againſt God. The Iſraelites are often ſaid to have rebelled againſt the law, word, or command of God; but though they frequently oppoſed their kings, I do not find rebellion imputed to them on that account, nor any ill character put upon ſuch actions. We are told alſo of ſome kings who had been ſubdued, and afterwards rebelled againſt Chedorlaomer, and other kings; but their

* 1 Sam. ch. 15. v. 23.

cauſe

cauſe is not blamed, and we have ſome reaſon to believe it good, becauſe SECT. 36
Abraham took part with thoſe who had rebelled. However, it can be of no prejudice to the cauſe I defend: for though it were true, that thoſe ſubdued kings could not juſtly riſe againſt the perſon who had ſubdued them, or that generally no king, being once vanquiſhed, could have a right of rebellion againſt his conqueror, it could have no relation to the actions of a people vindicating their own laws and liberties againſt a prince who violates them; for that war which never was can never be renewed. And if it be true in any caſe, that hands and ſwords are given to men, that they only may be ſlaves who have no courage, it muſt be when liberty is overthrown by thoſe, who of all men ought with the utmoſt induſtry and vigour to have defended it.

That this ſhould be known, is not only neceſſary for the ſafety of nations, but advantageous to ſuch kings as are wiſe and good. They who know the frailty of human nature will always diſtruſt their own; and deſiring only to do what they ought, will be glad to be reſtrained from that which they ought not to do. Being taught by reaſon and experience, that nations delight in the peace and juſtice of a good government, they will never fear a general inſurrection, whilſt they take care it be rightly adminiſtered; and finding themſelves by this means to be ſafe will never be unwilling, that their children or ſucceſſors ſhould be obliged to tread in the ſame ſteps.

If it be ſaid, that this may ſometimes cauſe diſorders, I acknowledge it; but no human condition being perfect, ſuch a one is to be choſen, which carries with it the moſt tolerable inconveniences: and it being much better, that the irregularities and exceſſes of a prince ſhould be reſtrained or ſuppreſſed, than that whole nations ſhould periſh by them, thoſe conſtitutions that make the beſt proviſion againſt the greateſt evils are moſt to be commended. If governments were inſtituted to gratify the luſts of one man, thoſe could not be good that ſet limits to them; but all reaſonable men confeſſing that they are inſtituted for the good of nations, they only can deſerve praiſe, who above all things endeavour to procure it, and appoint means proportioned to that end. The great variety of governments, which we ſee in the world, is nothing but the effect of this care; and all nations have been, and are more or leſs happy, as they or their anceſtors have had vigour of ſpirit, integrity of manners, and wiſdom to invent and eſtabliſh ſuch orders, as have better or worſe provided for this common good, which was ſought by all. But as no rule can be ſo exact as to make proviſion againſt all conteſtations; and all diſputes about right do naturally end in force when juſtice is denied (ill men never willingly ſubmitting to any deciſion, that is contrary to their paſſions and intereſts) the beſt conſtitutions are of no value, if there be not a power to ſupport them. This power firſt exerts itſelf in the execution of juſtice by the ordinary officers. But no nation having been ſo happy, as not ſometimes to produce ſuch princes as Edward the ſecond and Richard the ſecond, and ſuch miniſters, as Gaveſton, Spencer, and Treſilian, the ordinary officers of

juſtice

CHAP. III juſtice often want the will, and always the power, to reſtrain them. So that the rights and liberties of a nation muſt be utterly ſubverted and aboliſhed, if the power of the whole may not be employed to aſſert them, or puniſh the violation of them. But as it is the fundamental right of every nation to be governed by ſuch laws, in ſuch manner, and by ſuch perſons, as they think moſt conducing to their own good, they cannot be accountable to any but themſelves for what they do in that moſt important affair.

SECTION XXXVII

THE ENGLISH GOVERNMENT WAS NOT ILL CONSTITUTED, THE DEFECTS MORE LATELY OBSERVED PROCEEDING FROM THE CHANGE OF MANNERS, AND CORRUPTION OF THE TIMES.

I am not ignorant, that many honeſt and good men, acknowledging theſe rights, and the care of our anceſtors to preſerve them, think they wanted wiſdom rightly to proportionate the means to the end. It is not enough, ſay they, for the general of an army to deſire victory; he only can deſerve praiſe, who has ſkill, induſtry, and courage, to take the beſt meaſures of obtaining it. Neither is it enough for wiſe legiſlators to preſerve liberty, and to erect ſuch a government as may ſtand for a time; but to ſet ſuch clear rules to thoſe, who are to put it in execution, that every man may know when they tranſgreſs; and appoint ſuch means for reſtraining or puniſhing them, as may be uſed ſpeedily, ſurely, and effectually, without danger to the public. Sparta being thus conſtituted, we hardly find, that, for more than eight hundred years, any king preſumed to paſs the limits preſcribed by the law. If any Roman conſul grew inſolent, he might be reduced to order without blood, or danger to the public; and no dictator ever uſurped a power over liberty till the time of Sylla, when all things in the city were ſo changed, that the antient foundations were become too narrow. In Venice the power of the duke is ſo circumſcribed, that in 1300 years, no one, except Falerio and Tiepoli, has dared to attempt any thing againſt the laws: and they were immediately ſuppreſſed with little commotion in the city. On the other ſide, our law is ſo ambiguous, perplexed, and intricate, that it is hard to know when it is broken. In all the public conteſts we have had, men of good judgment and integrity have followed both parties. The means of tranſgreſſing, and procuring partiſans to make good by force the moſt notorious violations of liberty, have been ſo eaſy, that no prince, who has endeavoured it, ever failed to get great number of followers, and to do infinite miſchiefs, before he could be removed. The nation has been brought to fight againſt thoſe they had made to be what they were, upon the unequal terms of hazarding all againſt nothing. If they had ſucceſs, they gained no

no more than what was their own before, and which the law ought to have secured: whereas it is evident, that if at any one time the contrary had happened, the nation had been utterly enſlaved; and no victory was ever gained without the loſs of much noble and innocent blood. SECT. 37.

To this I anſwer, that no right judgment can be given of human things, without a particular regard to the time in which they paſſed. We eſteem Scipio, Hannibal, Pyrrhus, Alexander, Epaminondas, and Caeſar, to have been admirable commanders in war, becauſe they had in a moſt eminent degree all the qualities that could make them ſo, and knew beſt how to employ the arms then in uſe according to the diſcipline of their times; and yet no man doubts, that if the moſt ſkilful of them could be raiſed from the grave, reſtored to the utmoſt vigour of mind and body, ſet at the head of the beſt armies he ever commanded, and placed upon the frontiers of France or Flanders, he would not know how to advance or retreat, nor by what means to take any of the places in thoſe parts, as they are now fortified and defended; but would moſt certainly be beaten by any inſignificant fellow with a ſmall number of men, furniſhed with ſuch arms as are now in uſe, and following the methods now practiſed. Nay, the manner of marching, encamping, beſieging, attacking, defending, and fighting, is ſo much altered within the laſt threeſcore years, that no man, obſerving the diſcipline that was then thought to be the beſt, could poſſibly defend himſelf againſt that which has been ſince found out, though the terms are ſtill the ſame. And if it be conſidered, that political matters are ſubject to the ſame mutations (as certainly they are) it will be ſufficient to excuſe our anceſtors, who, ſuiting their government to the ages in which they lived, could neither foreſee the changes, that might happen in future generations, nor appoint remedies for the miſchiefs they did not foreſee.

They knew that the kings of ſeveral nations had been kept within the limits of the law, by the virtue and power of a great and brave nobility; and that no other way of ſupporting a mixed monarchy had ever been known in the world, than by putting the balance into the hands of thoſe who had the greateſt intereſt in nations, and who by birth and eſtate enjoyed greater advantage than kings could confer upon them for rewards of betraying their country. They knew, that when the nobility was ſo great as not eaſily to be numbered, the little that was left to the king's diſpoſal was not ſufficient to corrupt many; and if ſome might fall under the temptation, thoſe who continued in their integrity would eaſily be able to chaſtiſe them for deſerting the public cauſe, and by that means deter kings from endeavouring to ſeduce them from their duty. Whilſt things continued in this poſture, kings might ſafely be truſted (with the advice of their council) to confer the commands of the militia in towns and provinces upon the moſt eminent men in them: and whilſt thoſe kings were exerciſed in almoſt perpetual wars, and placed their glory in the greatneſs of the actions they atchieved by the power and valour of their people, it was their intereſt always to chooſe ſuch as ſeemed beſt to deſerve

that

CHAP. III

that honour. It was not to be imagined, that through the weakneſs of ſome, and malice of others, thoſe dignities ſhould by degrees be turned into empty titles, and become the rewards of the greateſt crimes, and the vileſt ſervices; or that the nobleſt of their deſcendents, for want of them, ſhould be brought under the name of commoners, and deprived of all privileges, except ſuch as were common to them with their grooms. Such a ſtupendous change being in proceſs of time inſenſibly introduced, the foundations of that government, which they had eſtabliſhed, were removed, and the ſuperſtructure overthrown. The balance by which it ſubſiſted was broken; and it is as impoſſible to reſtore it, as for moſt of thoſe who at this day go under the name of noblemen, to perform the duties required from the antient nobility of England. And though there were a charm in the name, and thoſe who have it ſhould be immediately filled with a ſpirit like to that which animated our anceſtors, and endeavour to deſerve the honours they poſſeſs, by ſuch ſervices to the country as they ought to have performed before they had them, they would not be able to accompliſh it. They have neither the intereſt nor the eſtates required for ſo great a work. Thoſe who have eſtates at a rack-rent have no dependents. Their tenants, when they have paid what is agreed, owe them nothing; and knowing they ſhall be turned out of their tenements, as ſoon as any other will give a little more, they look upon their lords as men, who receive more from them than they confer upon them. This dependence being loſt, the lords have only more money to ſpend or lay up than others, but no command of men; and can therefore neither protect the weak, nor curb the inſolent. By this means, all things have been brought into the hands of the king, and the commoners; and there is nothing left to cement them, and to maintain the union. The perpetual jarrings we hear every day, the diviſion of the nation into ſuch factions, as threaten us with ruin, and all the diſorders that we ſee or fear, are the effects of this rupture. Theſe things are not to be imputed to our original conſtitutions, but to thoſe who have ſubverted them. And if they who by corrupting, changing, enervating, and annihilating the nobility, which was the principal ſupport of the antient regular monarchy, have driven thoſe who are truly noblemen into the ſame intereſt and name with the commons, and by that means increaſed a party which never was, and, I think, never can be, united to the court, they are to anſwer for the conſequences; and if they periſh, their deſtruction is from themſelves.

The inconveniences therefore proceed not from the inſtitution, but from the innovation. The law was plain, but it has been induſtriouſly perplexed: they who were to have upheld it are overthrown. That which might have been eaſily performed when the people was armed, and had a great, ſtrong, virtuous, and powerful nobility to lead them, is made difficult, now they are diſarmed, and that nobility aboliſhed. Our anceſtors may evidently appear, not only to have intended well, but to have taken a right courſe to accompliſh what they intended. This had effect as long as the cauſe continued; and the only fault that can be aſcribed

aſcribed to that which they eſtabliſhed is, that it has not proved to be perpetual; which is no more than may be juſtly ſaid of the beſt human conſtitutions, that ever have been in the world. If we will be juſt to our anceſtors, it will become us in our time rather to purſue what we know they intended, and by new conſtitutions to repair the breaches made upon the old, than to accuſe them of the defects that will for ever attend the actions of men. Taking our affairs at the worſt, we ſhall ſoon find, that if we have the ſame ſpirit they had, we may eaſily reſtore our nation to its antient liberty, dignity and happineſs; and if we do not, the fault is owing to ourſelves, and not to any want of virtue and wiſdom in them. SECT. 38

SECTION XXXVIII

THE POWER OF CALLING AND DISSOLVING PARLIAMENTS IS NOT SIMPLY IN THE KING. THE VARIETY OF CUSTOMS IN CHOOSING PARLIAMENT-MEN, AND THE ERRORS A PEOPLE MAY COMMIT, NEITHER PROVE, THAT KINGS ARE OR OUGHT TO BE ABSOLUTE.

The original of magiſtratical power, the intention of our anceſtors in its creation, and the ways preſcribed for the direction and limitation of it may, I preſume, ſufficiently appear by what has been ſaid. But becauſe our author, taking hold of every twig, pretends, "that kings may call and "diſſolve parliaments at their pleaſure," and from thence infers the power to be wholly in them; alleges the various cuſtoms in ſeveral parts of this nation, uſed in the elections of parliament-men, to proceed from the king's will; and becauſe a people may commit errors, thinks all power ought to be put into the hands of the king:

I anſwer, 1. that the power of calling and diſſolving parliaments is not ſimply in kings. They may call parliaments, if there be occaſion, at times when the law does not exact it; they are placed as ſentinels, and ought vigilantly to obſerve the motions of the enemy, and give notice of his approach: but if the ſentinel fall aſleep, neglect his duty, or maliciouſly endeavour to betray the city, thoſe who are concerned may make uſe of all other means to know their danger, and to preſerve themſelves. The ignorance, incapacity, negligence, or luxury of a king, is a great calamity to a nation, and his malice is worſe, but not an irreparable ruin. Remedies may be, and often have been found againſt the worſt of their vices. The laſt French kings of the races of Meroveus and Pepin brought many miſchiefs upon the kingdom, but the deſtruction was prevented. Edward the ſecond and Richard the ſecond of England were not unlike them, and we know by what means the nation was preſerved. The queſtion was not who had the right, or who ought to call parliaments, but how the commonwealth might be ſaved from ruin. The conſuls, or

CHAP. III other chief magiſtrates in Rome, had certainly a right of aſſembling and diſmiſſing the ſenate. But when Hannibal was at the gates, or any other imminent danger threatened them with deſtruction, if that magiſtrate had been drunk, mad, or gained by the enemy, no wiſe man can think, that formalities were to have been obſerved. In ſuch caſes every man is a magiſtrate; and he who beſt knows the danger, and the means of preventing it, has a right of calling the ſenate or people to an aſſembly. The people would, and certainly ought to follow him, as they did Brutus and Valerius againſt Tarquin, or Horatius and Valerius againſt the decemviri; and whoever ſhould do otherwiſe might, for ſottiſhneſs, be compared to the courtiers of the two laſt kings of Spain. The firſt of theſe, by name Philip the third, being indiſpoſed in cold weather, a braziero of coals was brought into his chamber, and placed ſo near to him, that he was cruelly ſcorched. A nobleman, then preſent, ſaid to one who ſtood by him, "the king burns;" the other anſwered, it was true, but the page, whoſe office it was to bring and remove the braziero, was not there: and before he could be found, his majeſty's legs and face were ſo burnt, that it cauſed an eryſipelas, of which he died. Philip the fourth eſcaped not much better, who being ſurpriſed as he was hunting by a violent ſtorm of rain and hail, and no man preſuming to lend the king a cloak, he was ſo wet before the officer could be found who carried his own, that he took a cold, which caſt him into a dangerous fever. If kings like the conſequences of ſuch a regularity, they may cauſe it to be obſerved in their own families; but nations, looking in the firſt place to their own ſafety, would be guilty of the moſt extreme ſtupidity, if they ſhould ſuffer themſelves to be ruined for adhering to ſuch ceremonies.

This is ſaid upon a ſuppoſition, that the whole power of calling and diſſolving parliaments is, by the law, placed in the king: but I utterly deny that it is ſo; and to prove it, ſhall give the following reaſons.

(1.) That the king can have no ſuch power, unleſs it be given to him, for every man is originally free; and the ſame power that makes him king gives him all that belongs to his being king. It is not therefore an inherent, but a delegated power; and whoever receives it is accountable to thoſe that gave it; for, as our author is forced to confeſs, "they who "give authority by commiſſion do always retain more than they grant."

(2.) The law for annual parliaments expreſly declares it not to be in the king's power, as to the point of their meeting, nor conſequently their continuance. For they meet to no purpoſe if they may not continue to do the work for which they meet: and it were abſurd to give them a power of meeting, if they might not continue till it be done: for, as Grotius ſays, "qui dat finem, dat media ad finem neceſſaria.*" The only reaſon why parliaments do meet is to provide for the public good; and they by law ought to meet for that end. They ought not therefore to be diſſolved, till it be accompliſhed. For this reaſon the opinion given by Treſilian,

* Qui dat formam, dat quae ad formam ſunt neceſſaria. Grot. de Jure Belli, l. 2, c. 7, § 4.

that kings might diſſolve parliaments at their pleaſure, was adjudged to be a principal part of his treaſon. SECT. 38

(3.) We have already proved, that Saxons, Danes, Normans, &c. who had no title to the crown, were made kings by micel-gemotes, witena-gemotes, and parliaments; that is, either by the whole people, or their repreſentatives: others have been by the ſame authority reſtrained, brought to order, or depoſed. But as it is impoſſible, that ſuch as were not kings, and had no title to be kings, could, by virtue of a kingly power, call parliaments, when they had none; and abſurd to think, that ſuch as were in the throne, who had not governed according to law, would ſuffer themſelves to be reſtrained, impriſoned, or depoſed by parliaments, called and ſitting by themſelves, and ſtill depending upon their will to be, or not to be; it is certain that parliaments have in themſelves a power of ſitting and acting for the public good.

2. To the ſecond. The various cuſtoms uſed in elections are nothing to this queſtion. In the counties, which make up the body of the nation, all freeholders have their votes: theſe are properly "cives," members of the commonwealth, in diſtinction from thoſe who are only "incolae," or inhabitants, villains, and ſuch as being under their parents, are not yet "ſui juris." Theſe, in the beginning of the Saxons reign in England, compoſed the micel-gemotes; and when they grew to be ſo numerous, that one place could not contain them, or ſo far diſperſed, that without trouble and danger they could not leave their habitations, they deputed ſuch as ſhould repreſent them. When the nation came to be more poliſhed, to inhabit cities and towns, and to ſet up ſeveral arts and trades, thoſe who exerciſed them were thought to be as uſeful to the commonwealth, as the freeholders in the country, and to deſerve the ſame privileges. But it not being reaſonable, that every one ſhould in this caſe do what he pleaſed, it was thought fit, that the king with his council (which always conſiſted of the "proceres" and "magnates regni") ſhould judge what numbers of men, and what places deſerved to be made corporations, or bodies politic, and to enjoy thoſe privileges; by which he did not confer upon them any thing that was his, but, according to the truſt repoſed in him, did diſpenſe out of the public ſtock parcels of what he had received from the whole nation. And whether this was to be enjoyed by all the inhabitants, as in Weſtminſter; by the common hall, as in London; or by the mayor, aldermen, jurats, and corporation, as in other places, it is the ſame thing: for in all theſe caſes the king does only diſtribute, not give; and under the ſame condition that he might call parliaments, that is, for the public good. This indeed increaſes the honour of the perſon entruſted, and adds weight to the obligation incumbent upon him; but can never change the nature of the thing, ſo as to make that an inherent, which is only a delegated power. And as parliaments, when occaſion required, have been aſſembled, have refuſed to be diſſolved till their work was finiſhed, have ſeverely puniſhed thoſe who went about to perſuade kings, that ſuch matters depended abſolutely upon

CHAP. III their will, and made laws to the contrary, it is not to be imagined, that they would not alſo have interpoſed their authority in matters of charters, if it had been obſerved, that any king had notoriouſly abuſed the truſt repoſed in him, and turned the power to his private advantage, with which he was entruſted for the public good.

That which renders this moſt plain and ſafe is, that men choſen in this manner to ſerve in parliament, do not act by themſelves, but in conjunction with others, who are ſent thither by preſcription; nor by a power derived from kings, but from thoſe that chooſe them. If it be true therefore, that thoſe who delegate powers do always retain to themſelves more than they give, they who ſend theſe men do not give them an abſolute power of doing whatever they pleaſe, but retain to themſelves more than they confer upon their deputies: they muſt therefore be accountable to their principals, contrary to what our author aſſerts. This continues in force, though he knows not, that "any knights and burgeſſes have ever been queſtioned by thoſe that ſent them;" for it cannot be concluded they ought not, or may not be queſtioned, becauſe none have been queſtioned. But in truth they are frequently queſtioned: the people do perpetually judge of the behaviour of their deputies. Whenever any of them has the misfortune not to ſatisfy the major part of thoſe that choſe him, he is ſure to be rejected with diſgrace the next time he ſhall deſire to be choſen. This is not only a ſufficient puniſhment for ſuch faults, as he who is but one of five hundred may probably commit, but as much as the greateſt and freeſt people of the world did ever inflict upon their commanders, that brought the greateſt loſſes upon them. Appius Claudius, Pomponius, and Terentius Varro, ſurvived the greateſt defeats that ever the Romans ſuffered; and, though they had cauſed them by their folly and perverſeneſs, were never puniſhed. Yet I think no man doubts, but that the Romans had as much right over their own officers, as the Athenians and Carthaginians, who frequently put them to death. They thought the mind of a commander would be too much diſtracted, if at the ſame time he ſhould ſtand in fear both of the enemy, and his own countrymen. And as they always endeavoured to chooſe the beſt men, they would lay no other neceſſity upon them of performing their duty, than what was ſuggeſted by their own virtue, and love to their country. It is not therefore to be thought ſtrange, if the people of England have followed the moſt generous, and moſt proſperous examples. Beſides, if any thing has been defective in their uſual proceedings with their delegates, the inconvenience has been repaired by the modeſty of the beſt and wiſeſt of them that were choſen. Many in all ages, and ſometimes the whole body of the commons, have refuſed to give their opinion in ſome caſes, till they had conſulted with thoſe that ſent them: the houſes have been often adjourned to give them time to do it. And if this were done more frequently, or if the towns, cities, and counties, had on ſome occaſions given inſtructions to their deputies, matters would probably have gone better in parliament than they have often done.

3. The

3. The queſtion is not, whether the parliament be impeccable or infal- SECT. 38.
lible, but whether an aſſembly of nobility, with a houſe of commons compoſed of thoſe who are beſt eſteemed by their neighbours in all the towns and counties of England, are more or leſs ſubject to error or corruption, than ſuch a man, woman, or child, as happens to be next in blood to the laſt king. Many men do uſually ſee more than one; and if we may believe the wiſeſt king, "in the multitude of counſellors there is "ſafety *." Such as are of mature age, good experience, and approved reputation for virtue and wiſdom, will probably judge better than children or fools. Men are thought to be more fit for war, than women; and thoſe who are bred up in diſcipline to underſtand it better, than thoſe who never knew any thing of it. If ſome counties or cities fail to chooſe ſuch men as are eminently capable, all will hardly be ſo miſtaken as to chooſe thoſe who have no more of wiſdom or virtue, than is uſually entailed upon families. But Filmer at a venture admires the profound wiſdom of the king; though beſides ſuch as we have known, hiſtories give us too many proofs, that all thoſe who have been poſſeſſed of crowns have not excelled that way. He ſpeaks of kings in general, and makes no difference between Solomon and his fooliſh ſon. He diſtinguiſhes not our Edward the firſt from Edward the ſecond, Edward the third from Richard the ſecond, or Henry the fifth from Henry the ſixth. And becauſe all of them were kings, all of them, if he deſerves credit, muſt needs have been endowed with profound wiſdom. David was wiſe as an angel of God; therefore the preſent kings of France, Spain, and Sweden, muſt have been ſo alſo, when they were but five years old. Joan of Caſtile could not be mad, nor the two Joans of Naples infamous ſtrumpets, or all his arguments fall to the ground. For though Solomon's wiſdom ſurpaſſed that of all the people, yet men could not rely equally upon that of Rehoboam, unleſs it had been equal. And if they are all equal in wiſdom when they come to be equally kings, Perſes of Macedon was as great a captain as Philip or Alexander; Commodus and Heliogabalus were as wiſe and virtuous as Marcus Aurelius and Antoninus Pius: nay, Chriſtina of Sweden, in her infancy, was as fit to command an army as her valiant father. If this be moſt abſurd and falſe, there can be neither reaſon nor ſenſe in propoſing, as our author does, that the power ſhould be in the king, becauſe the parliament is not infallible. "It is," ſays he, "moſt proper for the head to correct, and not to expect the con-"ſent of the members, or parties peccant to be judges in their own caſes; "nor is it needful to confine the king, &c." Beſides that this is directly contrary to his own fundamental maxim, that no man muſt be the judge of his own caſe, inaſmuch as this would put the power into the king's hands, to decide the controverſies between himſelf and the people, in which his own paſſions, private intereſt, and the corrupt counſels of ill miniſters, will always lead him out of the way of juſtice, the inconveni-

* Prov. ch. 11, v. 14

ences

CHAP. III ences, that may ariſe from a poſſibility that the parliament or people is not infallible, will be turned to the moſt certain and deſtructive miſchiefs: as muſt have fallen out in Spain, if, upon a ſuppoſition that the eſtates of Caſtile might err, the correction of ſuch errors had been left to the profound wiſdom, and exquiſite judgment of Joan their queen and head, who was ſtark-mad. And the like may be ſaid of many other princes, who through natural or accidental infirmities, want of age, or dotage, have been utterly unable to judge of any thing.

The matter will not be much mended, though I paſs from idiots and lunatics, to ſuch as know well enough how to clothe and feed themſelves, and to perform the ordinary functions of life; and yet have been as incapable of giving a right judgment concerning the weighty matters of government, as the weakeſt of children, or the moſt furious of madmen. Good manners forbid me to enumerate the examples of this kind, which Europe has produced even in this age: but I ſhould commit a greater fault, if I did in ſilence paſs over the extravagances of thoſe, who being moſt weak in judgment, and irregular in their appetites, have been moſt impatient of any reſtraint upon their will. The brave Guſtavus Adolphus, and his nephew Carolus Guſtavus, who was not inferior to him in valour, wiſdom, and love to his people, were content with the power that the laws of their country gave to them; but Frederic the fourth of Denmark never reſted till he had overthrown the liberty of that nation. Caſimir, by attempting the like in Poland, loſt almoſt half of that kingdom; and flying from the other, left all to be ravaged by Swedes, Tartars, and Coſſacs. The preſent emperor, who paſſed his time in ſetting ſongs to muſic with a wretched Italian eunuch, when he ought to have been at the head of a brave army, raiſed to oppoſe the Turks in the year 1664, and which under good conduct might have overthrown the Ottoman empire, as ſoon as he was delivered from the fear of that enemy, fell upon his own ſubjects with ſuch cruelty, that they are now forced to fly to the Turks for protection: the proteſtants eſpecially, who find their condition more tolerable under thoſe profeſſed enemies to Chriſtianity, than to be expoſed to the pride, avarice, perfidiouſneſs, and violence, of the jeſuits, by whom he is governed. And the qualities of the king of Portugal are ſo well known, together with the condition to which he would have brought his kingdom if he had not been ſent to the Terceras, that I need not ſpeak particularly of him.

If kings therefore, by virtue of their office, are conſtituted judges over the body of their people, becauſe the people, or parliaments repreſenting them, are not infallible, thoſe kings who are children, fools, diſabled by age, or madmen, are ſo alſo; women have the ſame right, where they are admitted to the ſucceſſion; thoſe men, who, though of ripe age, and not ſuperannuated, nor directly fools or madmen, yet abſolutely incapable of judging important affairs, or by their paſſions, intereſts, vices, or malice and wickedneſs of their miniſters, ſervants, and favourites, are ſet to oppreſs and ruin the people, enjoy the ſame privilege; than which nothing

nothing can be imagined more abſurd and abominable, nor more directly tending to the corruption and deſtruction of the nations under them, for whoſe good and ſafety our author confeſſes they have their power. SECT. 39

SECTION XXXIX

THOSE KINGS ONLY ARE HEADS OF THE PEOPLE, WHO ARE GOOD, WISE, AND SEEK TO ADVANCE NO INTEREST BUT THAT OF THE PUBLIC.

The worſt of men ſeldom arrive to ſuch a degree of impudence, as plainly to propoſe the moſt miſchievous follies and enormities. They who are enemies to virtue, and fear not God, are afraid of men, and dare not offer ſuch things as the world will not bear, leſt by that means they ſhould overthrow their own deſigns. All poiſon muſt be diſguiſed, and no man can be perſuaded to eat arſenic, unleſs it be covered with ſomething that appears to be harmleſs. Creuſa would have abhorred Medea's preſent, if the peſtilent venom had not been hidden by the exterior luſtre of gold and gems*. The garment that deſtroyed Hercules appeared beautiful; and Eve had neither eaten of the forbidden tree, nor given the fruit to her huſband, if it had not ſeemed to be good and pleaſant, and ſhe had not been induced to believe, that by eating it they ſhould both be as gods. The ſervants of the devil have always followed the ſame method: their malice is carried on by fraud, and they have ſeldom deſtroyed any, but ſuch as they had firſt deceived. Truth can never conduce to miſchief, and is beſt diſcovered by plain words; but nothing is more uſual with ill men, than to cover their miſchievous deſigns with figurative phraſes. It would be too ridiculous to ſay in plain terms, that all kings without diſtinction are better able to judge of all matters than any or all their people; they muſt therefore be called "the head," that thereby they may be inveſted with all the preeminences which in a natural body belong to that part; and men muſt be made to believe the analogy between the natural and political body to be perfect. But the matter muſt be better examined before this mortal poiſon ſeem fit to be ſwallowed.

The word "head" is figuratively uſed both in Scripture and profane authors in ſeveral ſenſes, in relation to places or perſons, and always implies ſomething of real or ſeeming preeminence in point of honour or juriſdiction. Thus Damaſcus is ſaid to be the head of Syria; Samaria of Ephraim †, and Ephraim of the ten tribes; that is, Ephraim was the

* Πεισει χαρις, αμβροσιος τ' αυγα πεπλων. Eurip. Medea, act. 4, v. 118, et ſeq.
——————Ignis fulvo
Cluſus in auro latet obſcurus. Sen. Medea, act. 4, ſc. 2, v. 80

† Iſa. ch. 7, v. 8, 9.

chief

CHAP. III chief tribe; Samaria was the chief city of Ephraim, and Damaſcus of Syria; though it be certain, that Ephraim had no juriſdiction over the other tribes, nor Samaria over the other cities of Ephraim, but every one according to the law had an equal power within itſelf, or the territories belonging to it; and no privileges were granted to one above another, except to Jeruſalem, in the matter of religion, becauſe the temple was placed there.

The words head, prince, principal man, or captain, ſeem alſo to be equivocal; and in this ſenſe, the ſame men are called heads of the tribes, princes in the houſes of their fathers: and it is ſaid, that two hundred heads of the tribe of Reuben were carried away captive by Tiglath-Pilezer *, and proportionably in the other tribes; which were a ſtrange thing, if the word did imply that ſupreme, abſolute, and infinite power that our author attributes to it. And no man of leſs underſtanding than he can comprehend, how there ſhould be two hundred or more ſovereign unlimited powers in one tribe, eſpecially when it is certain, that one ſeries of kings had for many ages reigned over that tribe and nine more; and that every one of thoſe tribes, as well as the particular cities, even from their firſt entrance into the promiſed land, had a full juriſdiction within itſelf. When the Gileadites came to Jephthah, he ſuſpected them, and aſked whether indeed they intended to make him their head? They anſwered, if he would lead them againſt the Ammonites, he ſhould be their head †. In the like ſenſe, when Julius Caeſar in deſpair would have killed himſelf, one of his ſoldiers diſſuaded him from that deſign, by telling him, " that the ſafety of ſo many nations, that had made him " their head, depending upon his life, it would be cruelty in him to take " ſuch a reſolution ‡. " But for all that, when this head was taken off, the body did ſtill ſubſiſt: upon which I obſerve many fundamental differences, between the relation of this figurative head (even when the word is rightly applied) and that of the natural head, to their reſpective bodies.

The figurative heads may be many, the natural but one.

The people make or create the figurative head; the natural is from itſelf, or connate with the body.

The natural body cannot change or ſubſiſt without the natural head; but a people may change and ſubſiſt very well without the artificial. Nay, if it had been true, that the world had choſen Caeſar, as it was not (for he was choſen only by a factious mercenary army, and the ſoundeſt part ſo far oppoſed that election, that they brought him to think of killing himſelf) there could have been no truth in this flattering aſſertion, " that the ſafety of the whole depended upon his life: " for the world

* 1 Chron. ch. 5, v. 24, 26. Our author has no authority for ſaying, that " two hun- " dred " heads of the tribe of Reuben were carried into captivity by Tiglath-Pilezer. The number of the captives is not mentioned by the ſacred hiſtorian.

† Judg. ch. 11, v. 8, 9

‡ Cùm tot ab hâc animâ populorum vita ſaluſque
Pendeat, et tantus caput hoc ſibi fecerit orbis,
Saevitia eſt voluiſſe mori.---Luc. Pharſ. l. 5, v. 685

could

could not only ſubſiſt without him, but without any ſuch head, as it had done before he by the help of his corrupted ſoldiery had uſurped the power: which alſo ſhews, that a civil head may be a matter of convenience, but not of neceſſity. Many nations have had none; and if the expreſſion be ſo far ſtretched, as to make it extend to the annual or temporary magiſtrates ſet up by the Athenians, Carthaginians, Romans, and other antient commonwealths, or to thoſe at this day in Venice, Holland, Switzerland, and other places, it muſt be confeſſed, that the people who made, depoſed, abrogated, or aboliſhed both the magiſtrates and magiſtracies, had the power of framing, directing, and removing their heads, which, our author will ſay, is moſt abſurd. Yet they did it without any prejudice to themſelves, and very often much to their advantage. SECT. 39

In mentioning theſe vaſt and eſſential differences between the natural and political head, I no way intend to exclude others, that may be of equal weight; but as all figurative expreſſions have their ſtrength only from ſimilitude, there can be little or none in this, which differs in ſo many important points, and can therefore be of no effect.

However, right proceeds from identity, and not from ſimilitude. The right of a man over me is by being my father, and not by being like my father. If I had a brother ſo perfectly reſembling me, as to deceive our parents, which has ſometimes happened to twins, it could give him no right to any thing that is mine. If the power therefore of correcting the parties peccant, which our author attributes to kings, be grounded upon the name of head, and a reſemblance between the heads of the body politic and body natural; if this reſemblance be found to be exceedingly imperfect, uncertain, or perhaps no way relating to the matter in queſtion, or though it did, and were abſolutely perfect, could confer no right, the allegation of it is impertinent and abſurd.

This being cleared, it is time to examine, what the office of the head is in a natural body, that we may learn from thence, why that name is ſometimes given to thoſe, who are eminent in political bodies, and to whom it does belong.

Some men account the head to be ſo abſolutely the ſeat of all the ſenſes, as to derive even that of feeling, which is exerciſed in every part, from the brain; but I think it is not doubted, that all the reſt have both their ſeat and function in the head; and whatever is uſeful or hurtful to a man, is by them repreſented to the underſtanding: as Ariſtotle ſays, "nihil eſt "in intellectu, quod non ſit prius in ſenſu." This is properly the part of every magiſtrate: he is the centinel of the public, and is to repreſent what he diſcovers beneficial or hurtful to the ſociety; which office belongs not only to the ſupreme, but proportionably to the ſubordinate. In this ſenſe were the chief men among the Iſraelites called, "heads of their "fathers houſe, choice and mighty men of valour, chief of the princes." And in the following chapter mention is made of "nine hundred and "fifty Benjamites, chief men in the houſe of their fathers*." Theſe

* 1 Chron. ch. 7, v. 40, and ch. 9, v. 9

CHAP. III men exerciſed a charitable care over ſuch as were inferior to them in power and valour, without any ſhadow of ſovereignty, or poſſibility that there could be ſo many ſovereigns; and ſuch as were under their care are ſaid to be their brethren; which is not a word of majeſty and domination, but of dearneſs and equality. The name therefore of head may be given to a ſovereign, but it implies nothing of ſovereignty; and muſt be exerciſed with charity, which always terminates in the good of others. The head cannot correct or chaſtiſe; the proper work of that part is only to indicate; and he who takes upon him to do more is not the head. A natural body is homogeneous, and cannot ſubſiſt, if it be not ſo. We cannot take one part of a horſe, another of a bear, and put upon them the head of a lion; for it would be a monſter, that would have neither action nor life. The head muſt be of the ſame nature with the other members, or it cannot ſubſiſt. But the lord or maſter differs "in ſpecie" from his ſervants and ſlaves: he is not therefore properly their head.

Beſides, the head cannot have a ſubſiſtence without the body, nor any intereſt contrary to that of the body; and it is impoſſible for any thing to be good for the head, that is hurtful to the body. A prince therefore or magiſtrate, who ſets up an intereſt in himſelf diſtinct from, or repugnant to that of the people, renounces the title or quality of their head. Indeed, Moſes was the head of the Iſraelites: for when God threatened to deſtroy that people, and promiſed to make him a great nation, he waved the particular advantages offered to himſelf, interceded for them, and procured their pardon. Yet he was not able to bear the weight of the government alone; but deſired that ſome might be appointed to aſſiſt him. Gideon was the head of the ſame people; but he would not reign himſelf, nor ſuffer his ſons to reign over them. Samuel was alſo their head; he took nothing from any man, defrauded none, took bribes from no man, oppreſſed none: God and the people were his witneſſes. He blamed them for their rebellion againſt God in aſking a king, but was no way concerned for himſelf, or his family. David likewiſe had a right to that title; for he deſired, that God would ſpare the people, and turn the effect of his anger againſt himſelf, and the houſe of his father. But Rehoboam was not their head; for though he acknowledged, that his father had laid a heavy yoke upon them, yet he told them he would add to the weight; and that if his father had chaſtiſed them with whips, he would chaſtiſe them with ſcorpions. The head is no burden to the body, and can lay none upon it; the head cannot chaſtiſe any member; and he who does ſo, be it more or leſs, cannot be the head. Jeroboam was not the head of the revolting tribes; for the head takes care of the members, and provides for the ſafety of the whole: but he, through fear that the people going to Jeruſalem to worſhip ſhould return to the houſe of David, by ſetting up idols to ſecure his own intereſt, drew guilt and deſtruction upon them. Though it ſhould be granted, that Auguſtus, by a gentle uſe of his power, had in a manner expiated the deteſtable villainies committed in the acquiſition, and had truly deſerved to be called the head of the Romans; yet that title could no way belong

to

to Caligula, Claudius, Nero, or Vitellius, who neither had the qualities SECT. 39
required in the head, nor the underſtanding or will to perform the office. Nay, if I ſhould carry the matter farther, and acknowledge that Brutus, Cincinnatus, Fabius, Camillus, and others, who, in the time of their annual or ſhorter magiſtracies, had by their vigilance, virtue, and care to preſerve the city in ſafety, and to provide for the public good, performed the office of the head, and might deſerve the name, I might juſtly deny it to the greateſt princes that have been in the world, who, having their power for life, and leaving it to deſcend to their children, have wanted the virtues required for the performance of their duty: and I ſhould leſs fear to be guilty of an abſurdity in ſaying, that a nation might every year change its head, than that he can be the head, who cares not for the members, nor underſtands the things that conduce to their good, eſpecially if he ſet up an intereſt in himſelf againſt them. It cannot be ſaid, that theſe are imaginary caſes, and that no prince does theſe things; for the proof is too eaſy, and the examples too numerous. Caligula could not have wiſhed the Romans but one head, that he might cut it off at once, if he had been that head, and had advanced no intereſt contrary to that of the members. Nero had not burned the city of Rome, if his concernments had been inſeparably united to thoſe of the people. He who cauſed above three hundred thouſand of his innocent unarmed ſubjects to be murdered, and filled his whole kingdom with fire and blood, did ſet up a perſonal intereſt repugnant to that of the nation; and no better teſtimony can be required to ſhew, that he did ſo, than a letter written by his ſon, to take off the penalty due to one of the chief miniſters of thoſe cruelties, for this reaſon, that what he had done, was "by the command, and for "the ſervice, of his royal father." King John did not purſue the advantage of his people, when he endeavoured to ſubject them to the pope, or the Moors. And whatever prince ſeeks aſſiſtance from foreign powers, or makes leagues with any ſtranger or enemy for his own advantage againſt his people, however ſecret the treaty may be, declares himſelf not to be the head, but an enemy to them. The head cannot ſtand in need of an exterior help againſt the body, nor ſubſiſt when divided from it. He therefore that courts ſuch an aſſiſtance divides himſelf from the body; and if he do ſubſiſt, it muſt be by a life he has in himſelf, diſtinct from that of the body, which the head cannot have.

But beſides theſe enormities, that teſtify the moſt wicked rage and fury in the higheſt degree, there is another practice, which no man that knows the world can deny to be common with princes, and incompatible with the nature of a head. The head cannot deſire to draw all the nouriſhment of the body to itſelf, nor more than a due proportion. If the reſt of the parts are ſick, weak, or cold, the head ſuffers equally with them; and, if they periſh, muſt periſh alſo. Let this be compared with the actions of many princes we know, and we ſhall ſoon ſee which of them are heads of their people. If the gold brought from the Indies has been equally diſtributed by the kings of Spain to the body of that nation, I

CHAP. III

consent they may be called the heads. If the kings of France assume no more of the riches of that great kingdom than their due proportion, let them also wear that honourable name. But if the naked backs, and empty bellies of their miserable subjects evince the contrary, it can by no means belong to them. If those great nations waste and languish; if nothing be so common in the best provinces belonging to them, as misery, famine, and all the effects of the most outrageous oppression, whilst their princes and favourites possess such treasures, as the most wanton prodigality cannot exhaust; if that, which is gained by the sweat of so many millions of men, be torn out of the mouths of their starving wives and children, to foment the vices of those luxurious courts, or reward the ministers of their lusts, the nourishment is not distributed equally to all the parts of the body; the oeconomy of the whole is overthrown; and they who do these things cannot be the heads, nor parts of the body, but something distinct from, and repugnant to it. It is not therefore he who is found in, or advanced to the place of the head, who is truly the head. It is not he who ought, but he who does perform the office of the head, that deserves the name and privileges belonging to the head. If our author therefore will persuade us, that any king is head of his people, he must do it by arguments peculiarly relating to him, since those in general are found to be false. If he say, that the king, as king, may direct or correct the people, and that the power of determining all controversies must be referred to him, because they may be mistaken, he must shew that the king is infallible; for unless he do so, the wound is not cured. This also must be by some other way, than by saying he is their head; for such powers belong not to the office of the head, and we see, that all kings do not deserve that name: many of them want both understanding and will to perform the functions of the head; and many act directly contrary, in the whole course of their government. If any therefore among them have merited the glorious name of heads of nations, it must have been by their personal virtues, by a vigilant care of the good of their people, by an inseparable conjunction of interests with them, by an ardent love to every member of the society, by a moderation of spirit affecting no undue superiority, or assuming any singular advantage, which they are not willing to communicate to every part of the political body. He who finds this merit in himself will scorn all the advantages that can be drawn from misapplied names. He, that knows such honour to be peculiarly due to him for being the best of kings, will never glory in that which may be common to him with the worst. Nay, whoever pretends, by such general discourses as these of our author, to advance the particular interests of any one king, does either know he is of no merit, and that nothing can be said for him, which will not as well agree with the worst of men, or cares not what he says, so he may do mischief; and is well enough contented, that he, who is set up by such maxims as a public plague, may fall in the ruin he brings upon the people.

SECTION XL

GOOD LAWS PRESCRIBE EASY AND SAFE REMEDIES AGAINST THE EVILS PROCEEDING FROM THE VICES OR INFIRMITIES OF THE MAGISTRATE; AND WHEN THEY FAIL, THEY MUST BE SUPPLIED.

Thoſe who deſire to advance the power of the magiſtrate above the law would perſuade us, that the difficulties and dangers of inquiring into his actions, or oppoſing his will, when employed in violence and injuſtice, are ſo great, that the remedy is always worſe than the diſeaſe; and that it is better to ſuffer all the evils that may proceed from his infirmities and vices, than to hazard the conſequences of diſpleaſing him. But, on the contrary, I think, and hope to prove,

1. That in well conſtituted governments, the remedies againſt ill magiſtrates are eaſy and ſafe.

2. That it is good, as well for the magiſtrate as the people, ſo to conſtitute the government, that the remedies may be eaſy and ſafe.

3. That how dangerous and difficult ſoever they may be through the defects of the firſt conſtitution, they muſt be tried.

To the firſt. It is moſt evident, that in well regulated governments theſe remedies have been found to be eaſy and ſafe. The kings of Sparta were not ſuffered in the leaſt to deviate from the rule of the law: and Theopompus one of thoſe kings, in whoſe time the ephori were created, and the regal power much reſtrained, doubted not to affirm, that it was by that means become more laſting, and more ſecure *. Pauſanias had not the name of king, but commanded in the war againſt Xerxes with more than regal power: nevertheleſs, being grown inſolent, he was, without any trouble to that ſtate, baniſhed, and afterwards put to death. Leonidas, father of Cleomenes, was in the like manner baniſhed. The ſecond Agis was moſt unjuſtly put to death by the ephori, for he was a brave and a good prince; but there was neither danger nor difficulty in the action. Many of the Roman magiſtrates, after the expulſion of the kings, ſeem to have been deſirous to extend their power beyond the bounds of the law; and perhaps ſome others, as well as the decemviri, may have deſigned an abſolute tyranny; but the firſt were reſtrained, and the others without much difficulty ſuppreſſed. Nay, even the kings were ſo well kept in order, that no man ever pretended to the crown, unleſs he were choſen; nor made any other uſe of his power than the law permitted, except the laſt Tarquin, who by his inſolence, avarice, and cruelty, brought ruin upon himſelf and his family. I have already mentioned one or two dukes of Venice, who were not leſs ambitious; but their crimes

* Παραδιδωμαι πολυχρονιωτεραν. Ariſt. Polit. l. 5, c. 11. Vide ſuprà, p. 91

returned

CHAP. III returned upon their own heads, and they periſhed without any other danger to the ſtate, than what had paſſed before their treaſons were diſcovered. Infinite examples of the like nature may be alleged: and if matters have not at all times, and in all places, ſucceeded in the ſame manner, it has been becauſe the ſame courſes were not every where taken; for all things do ſo far follow their cauſes, that, being ordered in the ſame manner, they will always produce the ſame effects.

2. To the ſecond. Such a regulation of the magiſtratical power is not at all grievous to a good magiſtrate. He, who never deſires to do any thing but what he ought, cannot deſire a power of doing what he ought not, nor be troubled to find he cannot do that which he would not do if he could. This inability is alſo advantageous to thoſe who are evil or unwiſe; that ſince they cannot govern themſelves, a law may be impoſed upon them, leſt, by following their own irregular will, they bring deſtruction upon themſelves, their families, and people, as many have done. If Apollo in the fable had not been too indulgent to Phaeton in granting his ill conceived requeſt, the furious youth had not brought a neceſſity upon Jupiter, either of deſtroying him, or ſuffering the world to be deſtroyed by him.

Beſides, good and wiſe men know the weight of ſovereign power, and miſdoubt their own ſtrength. Sacred and human hiſtories furniſh us with many examples of thoſe who have feared the luſtre of a crown. Men, that find in themſelves no delight in doing miſchief, know not what thoughts may inſinuate into their minds, when they are raiſed too much above their ſphere. They who were able to bear adverſity, have been precipitated into ruin by proſperity. When the prophet told Hazael the villainies he would commit, he anſwered, "Is thy ſervant a dog, that I "ſhould do theſe things?" but yet he did them. I know not where to find an example of a man more excellently qualified than Alexander of Macedon; but he fell under the weight of his own fortune, and grew to exceed thoſe in vice, whom he had conquered by his virtue. The nature of man can hardly ſuffer ſuch violent changes, without being diſordered by them; and every one ought to entertain a juſt diffidence of himſelf, and fear the temptations that have deſtroyed ſo many. If any man be ſo happily born, ſo carefully educated, ſo eſtabliſhed in virtue, that no ſtorm can ſhake him, nor any poiſon corrupt him, yet he will conſider he is mortal; and, knowing no more than Solomon, whether his ſon ſhall be a wiſe man or a fool, he will always fear to take upon him a power, which muſt prove a moſt peſtilent evil both to the perſon that has it, and to thoſe that are under it, as ſoon as it ſhall fall into the hands of one, who either knows not how to uſe it, or may be eaſily drawn to abuſe it. Supreme magiſtrates always walk in obſcure and ſlippery places: but when they are advanced ſo high, that no one is near enough to ſupport, direct, or reſtrain them, their fall is inevitable and mortal. And thoſe nations that have wanted the prudence rightly to balance the powers of their magiſtrates, have been frequently obliged to have recourſe to the moſt violent

remedies, and with much difficulty, danger, and blood, to puniſh the crimes which they might have prevented. On the other ſide, ſuch as have been more wiſe in the conſtitution of their governments have always had regard to the frailty of human nature, and the corruption reigning in the hearts of men; and, being leſs liberal of the power over their lives and liberties, have reſerved to themſelves ſo much, as might keep their magiſtrates within the limits of the law, and oblige them to perform the ends of their inſtitution. And as the law which denounces ſevere penalties for crimes is indeed merciful both to ill men, who are by that means deterred from committing them, and to the good, who otherwiſe would be deſtroyed, ſo thoſe nations that have kept the reins in their hands, have by the ſame act provided as well for the ſafety of their princes, as for their own. They who know the law is well defended ſeldom attempt to ſubvert it: they are not eaſily tempted to run into exceſſes, when ſuch bounds are ſet, as may not ſafely be tranſgreſſed. And whilſt they are by theſe means rendered more moderate in the exerciſe of their power, the people is exempted from the odious neceſſity of ſuffering all manner of indignities and miſeries from their princes, or by their deſtruction to prevent or avenge them. SECT. 40

3. To the third. If theſe rules have not been well obſerved in the firſt conſtitution, or from the changes of times, corruption of manners, inſenſible encroachments, or violent uſurpations of princes, have been rendered ineffectual, and the people expoſed to all the calamities that may be brought upon them by the weakneſs, vices, and malice of the prince, or thoſe who govern him, I confeſs the remedies are more difficult and dangerous; but even in thoſe caſes they muſt be tried. Nothing can be feared that is worſe than what is ſuffered, or muſt in a ſhort time fall upon thoſe who are in this condition. They who are already fallen into all that is odious, ſhameful, and miſerable, cannot juſtly fear. When things are brought to ſuch a paſs, the boldeſt counſels are the moſt ſafe; and if they muſt periſh who lie ſtill, and they can but periſh who are moſt active, the choice is eaſily made *. Let the danger be ever ſo great, there is a poſſibility of ſafety, whilſt men have life, hands, arms, and courage to uſe them; but that people muſt certainly periſh, who tamely ſuffer themſelves to be oppreſſed, either by the injuſtice, cruelty, and malice of an ill magiſtrate, or by thoſe who prevail upon the vices and infirmities of weak princes. It is in vain to ſay, that this may give occaſion to men of raiſing tumults, or civil war; for though theſe are evils, yet they are not the greateſt of evils. Civil war, in Machiavel's account, is a diſeaſe; but tyranny is the death of a ſtate. Gentle ways are firſt to be uſed, and it is beſt if the work can be done by them; but it muſt not be left undone, if they fail. It is good to uſe ſupplications, advices, and remonſtrances;

* Moriendum victis, moriendum deditis: id ſolum referre, noviſſimum ſpiritum per ludibrium et contumelias effundunt, an per virtutem. Tacit. Hiſt. l. 3, § 66

Si nocentem innocentemque idem exitus maneat, acrioris viri eſt meritò perire. Ibid. l. 1, § 21

but

CHAP. III but thoſe who have no regard to juſtice, and will not hearken to counſel, muſt be conſtrained. It is folly to deal otherwiſe with a man who will not be guided by reaſon, and a magiſtrate who deſpiſes the law; or rather, to think him a man, who rejects the eſſential principle of a man; or to account him a magiſtrate, who overthrows the law by which he is a magiſtrate. This is the laſt reſult; but thoſe nations muſt come to it, which cannot otherwiſe be preſerved. Nero's madneſs was not to be cured, nor the miſchievous effects of it any otherwiſe to be ſuppreſſed than by his death. He who had ſpared ſuch a monſter when it was in his power to remove him, had brought deſtruction upon the whole empire; and by a fooliſh clemency made himſelf the author of his future villainies. This would have been yet more clear, if the world had then been in ſuch a temper as to be capable of an entire liberty. But the antient foundations had been overthrown, and nothing better could be built upon the new, than ſomething that might in part reſiſt that torrent of iniquity which had overflowed the beſt part of the world, and give mankind a little time to breathe under a leſs barbarous maſter. Yet all the beſt men did join in the work that was then to be done, though they knew it would prove but imperfect. The ſacred hiſtory is not without examples of this kind. When Ahab had ſubverted the law, ſet up falſe witneſſes, and corrupt judges, to deſtroy the innocent, killed the prophets, and eſtabliſhed idolatry, his houſe muſt then be cut off, and his blood be licked up by dogs. When matters are brought to this paſs, the deciſion is eaſy. The queſtion is only, whether the puniſhment of crimes ſhall fall upon one or a few perſons who are guilty of them, or upon a whole nation that is innocent. If the father may not die for the ſon, nor the ſon for the father, but every one muſt bear the penalty of his own crimes, it would be moſt abſurd to puniſh the people for the guilt of princes. When the earl of Morton was ſent ambaſſador to queen Elizabeth by the eſtates of Scotland, to juſtify their proceedings againſt Mary their queen, whom they had obliged to renounce the government, he alleged among other things the murder of her huſband plainly proved againſt her; aſſerted the antient right and cuſtom of that kingdom of examining the actions of their kings; by which means, he ſaid, many had been puniſhed with death, impriſonment, and exile*; confirmed their actions by the examples of

* Factum ipſum, nec animadvertendi in reges vetus majorum conſuetudo novum videri ſinit, nec moderatio poenae invidioſum: nam tot reges à noſtris majoribus morte, vinculis, exilio punitos, enumerare nihil eſt opus . . . . Gens Scotorum, cùm ab initio libera eſſet, reges eo jure ſibi creavit, ut imperium populi ſuffragiis eis mandatum, ſi res poſceret, eiſdem ſuffragiis ademere poſſent . . . Hujus juris expreſſam habent imaginem quae in regno ineundo uſurpantur ceremoniae; ex quibus facilè apparet, regnum nihil aliud eſſe, quam mutuam inter populos et reges ſtipulationem . . . Cùm tot reges, quos enumerare longum eſſet, majores noſtri regno exuerint, exilio damnarint, carceribus coercuerint, ſupplicio denique affecerint; nec unquam tamen de legis acerbitate minuendâ mentio eſt facta: nec immeritò fortaſſe, cùm ea non ſit de illarum ſanctionum genere, quae mutationibus temporum ſunt obnoxiae, ſed in primo generis humani exortu in mentes hominum inciſae, et mutuo propè gentium omnium conſenſu comprobatae, et unà cum rerum naturâ infragiles et ſempiternae perennent. Buch. Rer. Scot. Hiſt. l. 20

other

other nations; and upon the whole matter concluded, that if ſhe was ſtill permitted to live, it was not on account of her innocence, or any exemption from the penalties of the law, but from the mercy and clemency of the people, who, contenting themſelves with a reſignation of her right and power to her ſon, had ſpared her. This diſcourſe, which is ſet down at large by the hiſtorian cited in the margin, being of ſuch ſtrength in itſelf as never to have been any otherwiſe anſwered than by railing, and no way diſapproved by queen Elizabeth, or her council, to whom it was made, either upon a general account of the pretenſions of princes to be exempted from the penalties of the law, or any pretext that they had particularly miſapplied them in relation to their queen, I may juſtly ſay, that when nations fall under ſuch princes as are either utterly incapable of making a right uſe of their power, or do maliciouſly abuſe that authority with which they are entruſted, thoſe nations ſtand obliged, by the duty they owe to themſelves and their poſterity, to uſe the beſt of their endeavours to remove the evil, whatever danger or difficulties they may meet with in the performance. Pontius the Samnite ſaid as truly as bravely to his countrymen, "that thoſe arms were juſt and pious, that were neceſ- "ſary; and neceſſary, when there was no hope of ſafety by any other "way *." This is the voice of mankind, and is diſliked only by thoſe princes, who fear the deſerved puniſhments that may fall upon them; or by their ſervants and flatterers, who, being for the moſt part the authors of their crimes, think they ſhall be involved in their ruin. SECT. 41

SECTION XLI

THE PEOPLE, FOR WHOM AND BY WHOM THE MAGISTRATE IS CREATED, CAN ONLY JUDGE WHETHER HE RIGHTLY PERFORM HIS OFFICE OR NOT.

It is commonly ſaid, that no man ought to be the judge of his own caſe; and our author lays much weight upon it as a fundamental maxim, *though*, according to his ordinary inconſtancy, he overthrows it in the caſe of *kings*, where it ought to take place, if in any; for it often falls out, that no men are leſs capable of forming a right judgment than they. Their paſſions and intereſts are moſt powerful to diſturb or pervert them. No men are ſo liable to be diverted from juſtice by the flatteries of corrupt ſervants. They never act as kings, except for thoſe by whom and for whom they are created; and acting for others, the account of their actions cannot depend upon their own will. Nevertheleſs I am not afraid to ſay, that naturally and properly a man is the judge of his own concernments. No one is or can be deprived of this privilege, unleſs by his own conſent,

* Juſtum eſt bellum, quibus neceſſarium; et pia arma, quibus nulla niſi in armis relinquitur ſpes. Liv. l. 9, c. 1

CHAP. III and for the good of that ſociety into which he enters. This right therefore muſt neceſſarily belong to every man in all caſes, except only ſuch as relate to the good of the community, for whoſe ſake he has diveſted himſelf of it. If I find myſelf afflicted with hunger, thirſt, wearineſs, cold, heat, or ſickneſs, it is a folly to tell me, I ought not to ſeek meat, drink, reſt, ſhelter, refreſhment, or phyſic, becauſe I muſt not be the judge of my own caſe. The like may be ſaid in relation to my houſe, land, or eſtate: I may do what I pleaſe with them, if I bring no damage upon others. But I muſt not ſet fire to my houſe, by which my neighbour's houſe may be burnt. I may not erect forts upon my own lands, or deliver them to a foreign enemy, who may by that means infeſt my country. I may not cut the banks of the ſea, or thoſe of a river, leſt my neighbour's ground be overflown, becauſe the ſociety into which I am incorporated would by ſuch means receive prejudice. My land is not ſimply my own, but upon condition that I ſhall not thereby bring damage upon the public, by which I am protected in the peaceable enjoyment and innocent uſe of what I poſſeſs. But this ſociety leaves me a liberty to take ſervants, and put them away, at my pleaſure. No man is to direct me, of what quality or number they ſhall be, or can tell me, whether I am well or ill ſerved by them. Nay, the ſtate takes no other cognizance of what paſſes between me and them, than to oblige me to perform the contracts I make, and not to do that to them which the law forbids: that is to ſay, the power to which I have ſubmitted myſelf, exerciſes that juriſdiction over me, which was eſtabliſhed by my conſent, and under which I enjoy all the benefits of life, which are of more advantage to me than my liberty could have been, if I had retained it wholly in myſelf. The nature alſo and meaſure of this ſubmiſſion muſt be determined by the reaſons that induced me to it. The ſociety in which I live cannot ſubſiſt, unleſs by rule. The equality in which men are born is ſo perfect, that no man will ſuffer his natural liberty to be abridged, except others do the like. I cannot reaſonably expect to be defended from wrong, unleſs I oblige myſelf to do none; or to ſuffer the puniſhment preſcribed by the law, if I perform not my engagement. But, without prejudice to the ſociety into which I enter, I may and do retain to myſelf the liberty of doing what I pleaſe in all things relating peculiarly to myſelf, or in which I am to ſeek my own convenience.

Now if a private man is not ſubject to the judgment of any other, than thoſe to whom he ſubmits himſelf for his own ſafety and convenience; and, notwithſtanding that ſubmiſſion, ſtill retains to himſelf the right of ordering according to his own will all things merely relating to himſelf, and of doing what he pleaſes in that which he does for his own ſake, the ſame right muſt more certainly belong to whole nations. When a controverſy happens between Caius and Sejus in a matter of right, neither of them may determine the cauſe, but it muſt be referred to a judge ſuperior to both; not becauſe it is not fit that a man ſhould be judge of his own caſe, but becauſe they have both an equal right, and neither of

them owes any ſubjection to the other. But if there be a conteſt between me and my ſervant concerning my ſervice, I only am to decide it. He muſt ſerve me in my own way, or begone, if I think fit, though he ſerve me ever ſo well; and I do him no wrong in putting him away, if either I intend to keep no ſervant, or find that another will pleaſe me better. I cannot therefore ſtand in need of a judge, unleſs the conteſt be with one who lives upon an equal foot with me. No man can be my judge, unleſs he be my ſuperior; and he cannot be my ſuperior, who is not ſo by my conſent, nor to any other purpoſe than I conſent to. This cannot be the caſe of a nation, which can have no equal within itſelf. Controverſies may ariſe with other nations, the deciſion of which may be left to judges choſen by mutual agreement; but this relates not to our queſtion. A nation, and eſpecially one that is powerful, cannot recede from its own right, as a private man, from the knowledge of his own weakneſs, and inability to defend himſelf, muſt come under the protection of a greater power than his own. The ſtrength of a nation is not in the magiſtrate, but the ſtrength of the magiſtrate is in the nation. The wiſdom, induſtry, and valour of a prince may add to the glory and greatneſs of a nation, but the foundation and ſubſtance will always be in itſelf. If the magiſtrate and people were upon equal terms, as Caius and Sejus, receiving equal and mutual advantages from each other, no man could be judge of their differences, but ſuch as they ſhould ſet up for that end. This has been done by many nations. The antient Germans referred the deciſion of the moſt difficult matters to their prieſts; the Gauls and Britons to the Druids; the Mahometans for ſome ages to the caliphs of Babylon; the Saxons in England, when they had embraced the Chriſtian religion, to their clergy. Whilſt all Europe lay under the popiſh ſuperſtition, the deciſion of ſuch matters was frequently aſſumed by the pope: men often ſubmitted to his judgment, and the princes that reſiſted were for the moſt part excommunicated, depoſed and deſtroyed. All this was done for the ſame reaſons. Theſe men were accounted holy and inſpired, and the ſentence pronounced by them was uſually reverenced as the judgment of God, who was thought to direct them; and all thoſe who refuſed to ſubmit were eſteemed execrable. But no man or number of men, as I think, at the inſtitution of a magiſtrate, did ever ſay, if any difference happen between you or your ſucceſſors and us, it ſhall be determined by yourſelf, or by them, whether they be men, women, children, mad, fooliſh, or vicious. Nay, if any ſuch thing had been, the folly, turpitude, and madneſs of ſuch a ſanction or ſtipulation muſt neceſſarily have deſtroyed it. But if no ſuch thing was ever known, or could have no effect, if it had been in any place, it is moſt abſurd to impoſe it upon all. The people therefore cannot be deprived of their natural rights upon a frivolous pretence to that which never was, and never can be. They who create magiſtracies, and give to them ſuch name, form, and power, as they think fit, do only know, whether the end for which they were created be performed or not. They who give a being to the power which had none can only judge, SECT. 41

CHAP. III whether it be employed to their welfare, or turned to their ruin. They do not ſet up one or a few men, that they and their poſterity may live in ſplendor and greatneſs, but that juſtice may be adminiſtred, virtue eſtabliſhed, and proviſion made for the public ſafety. No wiſe man will think this can be done, if thoſe who ſet themſelves to overthrow the law are to be their own judges. If Caligula, Nero, Vitellius, Domitian, or Heliogabalus, had been ſubject to no other judgment, they would have completed the deſtruction of the empire. If the diſputes between Durſtus, Evenus the third, Dardanus, and other kings of Scotland, with the nobility and people, might have been determined by themſelves, they had eſcaped the puniſhments they ſuffered, and ruined the nation as they deſigned. Other methods were taken; they periſhed by their madneſs; better princes were brought into their places, and their ſucceſſors were by their example admoniſhed to avoid the ways that had proved fatal to them. If Edward the ſecond of England, with Gaveſton and the Spencers, Richard the ſecond with Treſilian and Vere, had been permitted to be the judges of their own caſes, they who had murdered the beſt of the nobility would have purſued their deſigns to the deſtruction of ſuch as remained, the enſlaving of the nation, the ſubverſion of the conſtitution, and the eſtabliſhment of a mere tyranny in the place of a mixed monarchy. But our anceſtors took better meaſures: they who had felt the ſmart of the vices and follies of their princes knew what remedies were moſt fit to be applied, as well as the beſt time of applying them. They found the effects of extreme corruption in government to be ſo deſperately pernicious, that nations muſt neceſſarily periſh, unleſs it be corrected, and the ſtate reduced to its firſt principle, or altered. Which being the caſe, it was as eaſy for them to judge, whether the governor, who had introduced that corruption, ſhould be brought to order, and removed if he would not be reclaimed, or whether he ſhould be ſuffered to ruin them and their poſterity, as it is for me to judge, whether I ſhould put away my ſervant, if I knew he intended to poiſon or murder me, and had a certain facility of accompliſhing his deſign; or whether I ſhould continue him in my ſervice till he had performed it. Nay, the matter is ſo much the more plain on the ſide of the nation, as the diſproportion of merit between a whole people, and one or a few men entruſted with the power of governing them, is greater than between a private man and his ſervant. This is ſo fully confirmed by the general conſent of mankind, that we know no government that has not frequently either been altered in form, or reduced to its original purity, by changing the families or perſons who abuſed the power with which they had been entruſted. Thoſe who have wanted wiſdom and virtue, rightly and ſeaſonably to perform this, have been ſoon deſtroyed; like the Goths in Spain, who, by omitting to curb the fury of Vitiza and Roderic in time, became a prey to the Moors. Their kingdom by this means deſtroyed was never reſtored, and the remainder of that nation, joining with the Spaniards, whom they had kept in ſubjection for three or four ages, could not, in leſs than eight hundred years, expel

expel thoſe enemies they might have kept out only by removing two baſe SECT. 41
and vicious kings. Such nations as have been ſo corrupted, that, when they have applied themſelves to ſeek remedies to the evils they ſuffered by wicked magiſtrates, they could not fall upon ſuch as were proportionable to the diſeaſe, have only vented their paſſions in deſtroying the immediate inſtruments of their oppreſſion, or for a while delayed their utter ruin. But the root ſtill remaining, it ſoon produced the ſame poiſonous fruit, and either quite deſtroyed, or made them languiſh in perpetual miſery. The Roman empire was the moſt eminent example of the firſt: many of the monſters that had tyrannized over them were killed; but the greateſt advantage gained by their death was a reſpite from ruin; and the government, which ought to have been eſtabliſhed by good laws, depending only upon the virtue of one man, his life proved to be no more than a lucid interval, and at his death they relapſed into the depth of infamy and miſery; and in this condition they continued till the empire was totally ſubverted.

All the kingdoms of the Arabians, Medes, Perſians, Moors, and others of the eaſt, are of the other ſort. Common ſenſe inſtructs them, that barbarous pride, cruelty, and madneſs grown to extremity, cannot be borne: but they have no other way than to kill the tyrant, and to do the like to his ſucceſſor, if he fall into the ſame crimes. Wanting that wiſdom and valour which is required for the inſtitution of a good government, they languiſh in perpetual ſlavery, and propoſe to themſelves nothing better than to live under a gentle maſter, which is but a precarious life, and little to be valued by men of bravery and ſpirit. But thoſe nations that are more generous, who ſet a higher value upon liberty, and better underſtand the ways of preſerving it, think it a ſmall matter to deſtroy a tyrant, unleſs they can alſo deſtroy the tyranny. They endeavour to do the work throughly, either by changing the government entirely, or reforming it according to the firſt inſtitution, and making ſuch good laws as may preſerve its integrity when reformed. This has been ſo frequent in all the nations, both antient and modern, with whoſe actions we are beſt acquainted, as appears by the foregoing examples, and many others that might be alleged, if the caſe were not clear, that there is not one of them which will not furniſh us with many inſtances; and no one magiſtracy now in being, which does not owe its original to ſome judgment of this nature. So that they muſt either derive their right from ſuch actions, or confeſs they have none at all, and leave the nations to their original liberty of ſetting up thoſe magiſtracies which beſt pleaſe themſelves, without any reſtriction or obligation to regard one perſon or family more than another.

SECTION XLII

THE PERSON THAT WEARS THE CROWN CANNOT DETERMINE THE AFFAIRS WHICH THE LAW REFERS TO THE KING.

Our author, with the reſt of the vulgar, ſeems to have been led into groſs errors by the form of writs ſummoning perſons to appear before the king. The common ſtyle uſed in the trial of delinquents, the name of the king's witneſſes given to thoſe who accuſe them, the verdicts brought in by juries, "coram domino rege," and the proſecution made in the king's name, ſeem to have cauſed this. And they who underſtand not theſe phraſes render the law a heap of the moſt groſs abſurdities, and the king an enemy to every one of his ſubjects, when he ought to be a father to them all; ſince without any particular conſideration or examination of what any witneſs depoſes in a court of juſtice, tending to the death, confiſcation, or other puniſhment of any man, he is called the king's witneſs, whether he ſpeak the truth, or a lye, and on that account favoured. It is not neceſſary to allege many inſtances in a caſe that is ſo plain; but it may not be amiſs to inſert two or three of the moſt important reaſons to prove my aſſertion.

1. If the law did intend, that he or ſhe who wears the crown ſhould in his or her perſon judge all cauſes, and determine the moſt difficult queſtions, it muſt, like our author, preſume that they will always be of profound wiſdom to comprehend all of them, and of perfect integrity always to act according to their underſtanding. Which is no leſs than to lay the foundation of the government upon a thing merely contingent, that either never was, or very often fails, as is too much verified by experience, and the hiſtories of all nations; or elſe to refer the deciſion of all to thoſe who through the infirmities of age, ſex, or perſon, are often incapable of judging the leaſt, or ſubject to ſuch paſſions and vices as would divert them from juſtice, though they did underſtand it; both which ſeem to be almoſt equally prepoſterous.

2. The law muſt alſo preſume, that the prince is always preſent in all the places where his name is uſed. The king of France is, as I have ſaid already, eſteemed to be preſent "on the ſeat of juſtice*" in all the parliaments and ſovereign courts of the kingdom: and if his corporeal preſence were by that phraſe to be underſtood, he muſt be in all thoſe diſtinct and far diſtant places at the ſame time; which abſurdity can hardly be paralleled, unleſs by the popiſh opinion of tranſubſtantiation. But indeed they are ſo far from being guilty of ſuch monſtrous abſurdity, that he cannot in perſon be preſent at any tryal; and no man can be judged, if he be. This was plainly aſſerted to Lewis the thirteenth (when he would

* Sur ſon lit de juſtice

have

have been at the tryal of the duke of Candale) by the preſident de Bellievre, who told him, that as he could judge no man himſelf, ſo they could not judge any, if he were preſent: upon which he retired. SECT. 42.

3. The laws of moſt kingdoms giving to kings the confiſcation of delinquents eſtates, if they in their own perſons might give judgment upon them, they would be conſtituted both judges and parties; which, beſides the forementioned incapacities, to which princes are as much ſubject as other men, would tempt them by their own perſonal intereſt to ſubvert all manner of juſtice.

This therefore not being the meaning of the law, we are to inquire what it is; and the thing is ſo plain, that we cannot miſtake, unleſs we do it wilfully. Some name muſt be uſed in all manner of tranſactions, and in matters of public concernment none can be ſo fit as that of the principal magiſtrate. Thus are leagues made, not only with kings and emperors, but with the dukes of Venice and Genoa, the avoyer and ſenate of a canton in Switzerland, the burgermeiſter of an imperial town in Germany, and the ſtates-general of the United Provinces. But no man thinking, I preſume, theſe leagues would be of any value, if they could only oblige the perſons whoſe names are uſed, it is plain, that they do not ſtipulate only for themſelves; and that their ſtipulations would be of no value, if they were merely perſonal. And nothing can more certainly prove, they are not ſo, than that we certainly know, theſe dukes, avoyers, and burgermeiſters, can do nothing of themſelves. The power of the ſtates-general of the United Provinces is limited to the points mentioned in the act of union made at Utrecht. The empire is not obliged by any ſtipulation made by the emperor without their conſent. Nothing is more common than for one king, making a league with another, to exact a confirmation of their agreement, by the parliaments, diets, or general eſtates; becauſe, ſays Grotius, "a prince does not ſtipulate for himſelf, "but for the people under his government; and a king deprived of his "kingdom loſes the right of ſending an ambaſſador *." The powers of Europe ſhewed themſelves to be of this opinion in the caſe of Portugal. When Philip the ſecond had gained the poſſeſſion, they treated with him concerning the affairs relating to that kingdom: few regarded Don Antonio; and no man conſidered the dukes of Savoy, Parma, or Braganza, who perhaps had the moſt plauſible titles: but, when his grandſon Philip the fourth had loſt that kingdom, and the people had ſet up the duke of Braganza, they all treated with him as king. And the Engliſh court, though then in amity with Spain, and not a little influenced by a Spaniſh faction, gave example to others by treating with him, and not with Spain, touching matters relating to that ſtate. Nay, I have been informed by thoſe who well underſtood the affairs of that time, that the lord Cottington adviſing the late king not to receive any perſons ſent from the duke of Braganza, rebel to his ally the king of Spain, in the quality of ambaſ-

* Vide ſuprà, p. 437.

ſadors,

CHAP. III ſadors, the king anſwered, that he muſt look upon that perſon to be king of Portugal who was acknowledged by the nation. And I am miſtaken, if his majeſty now reigning did not find all the princes and ſtates of the world to be of the ſame mind, when he was out of his kingdom, and could oblige no man but himſelf, and a few followers, by any treaty he could make.

For the ſame reaſon the names of kings are uſed in treaties, when they are either children, or otherwiſe incapable of knowing what alliances are fit to be made or rejected; and yet ſuch treaties do equally oblige them, their ſucceſſors and people, as if they were of mature age, and fit for government. No man therefore ought to think it ſtrange, if the king's name be uſed in domeſtic affairs, of which he neither ought nor can take any cognizance. In theſe caſes he is perpetually a minor: he muſt ſuffer the law to take its due courſe; and the judges, though nominated by him, are obliged by oath not to have any regard to his letters, or perſonal commands. If a man be ſued, he muſt appear; and a delinquent is to be tried "coram rege," but no otherwiſe than "ſecundum legem terrae, "according to the law of the land," not the king's perſonal will or opinion. And the judgments given muſt be executed, whether they pleaſe him or not, it being always underſtood, that he can ſpeak no otherwiſe than the law ſpeaks, and is always preſent as far as the law requires. For this reaſon a noble lord, who was irregularly detained in priſon in 1681, being by habeas corpus brought to the bar of the king's bench, where he ſued to be releaſed upon bail; and an ignorant judge telling him he muſt apply himſelf to the king, he replied, that he came thither for that end; that the king might eat, drink, or ſleep, where he pleaſed; but when he rendered juſtice, he was always in that place. The king that renders juſtice is indeed always there: he never ſleeps; he is ſubject to no infirmity; he never dies, unleſs the nation be extinguiſhed, or ſo diſſipated as to have no government. No nation that has a ſovereign power within itſelf does ever want this king. He was in Athens and Rome, as well as at Babylon and Suſa; and is as properly ſaid to be now in Venice, Switzerland, or Holland, as in France, Morocco, or Turky. This is he to whom we all owe a ſimple and unconditional obedience. This is he "who never does any wrong:" it is before him we appear, when we demand juſtice, or render an account of our actions. All juries give their verdict in his ſight: they are his commands that the judges are bound and ſworn to obey, when they are not at all to conſider ſuch as they receive from the perſon that wears the crown. It was for treaſon againſt him, that Treſilian and others like to him in ſeveral ages were hanged. They gratified the luſts of the viſible powers; but the inviſible king would not be mocked. He cauſed juſtice to be executed upon Empſon and Dudley. He was injured, when the perjured wretches, who gave that accurſed judgment in the caſe of ſhip-money, were ſuffered to eſcape the like puniſhment by means of the enſuing troubles, which they had chiefly

chiefly raiſed. And I leave it to thoſe who are concerned, to conſider how many in our days may expect vengeance for the like crimes. SECT. 42

I ſhould here conclude this point, if the power of granting a "noli proſequi, ceſſet proceſſus," and pardons, which are ſaid to be annexed to the perſon of the king, were not taken for a proof, that all proceedings at law depend upon his will. But whoever would from hence draw a general concluſion muſt firſt prove his propoſition to be univerſally true. If it be wholly falſe, no true deduction can be made; and if it be true only in ſome caſes, it is abſurd to draw from thence a general concluſion; and to erect a vaſt fabric upon a narrow foundation is impoſſible. As to the general propoſition, I utterly deny it. The king cannot ſtop any ſuit that I begin in my own name, nor invalidate any judgment I obtain upon it. He cannot releaſe a debt of ten ſhillings due to me, nor a ſentence for the like ſum given upon an action of battery, aſſault, treſpaſs, public nuiſance, or the like. He cannot pardon a man condemned upon an appeal, nor hinder the perſon injured from appealing. His power therefore is not univerſal: if it be not univerſal, it cannot be inherent, but conferred upon him, or entruſted by a ſuperior power, that limits it.

Theſe limits are fixed by the law: the law therefore is above him. His proceedings muſt be regulated by the law, and not the law by his will. Beſides, the extent of thoſe limits can only be known by the intention of the law that ſets them; and are ſo viſible, that none but ſuch as are wilfully blind can miſtake. It cannot be imagined, that the law, which does not give a power to the king of pardoning a man that breaks my hedge, can intend he ſhould have power to pardon one who kills my father, breaks my houſe, robs me of my goods, abuſes my children and ſervants, wounds me, and brings me in danger of my life. Whatever power he has in ſuch caſes is founded upon a preſumption, that he, who has ſworn not to deny or delay juſtice to any man, will not break his oath to interrupt it. And farther, though he does nothing but what he may rightly do, "cum magnatum et ſapientum conſilio;" and it is ſuppoſed, they will never adviſe him to do any thing, but what ought to be done, in order to attain the great ends of the law, juſtice, and the public ſafety; yet, leſt this ſhould not be ſufficient to keep things in their due order, or the king ſhould forget his oath, not to delay or deny juſtice to any man, his counſellors are expoſed to the ſevereſt puniſhments, if they adviſe him to do any thing contrary to it, and the law upon which it is grounded. So that the utmoſt advantage the king can pretend to, in this caſe, is no more than that of the Norman, who ſaid he had gained his cauſe, becauſe it depended upon a point that was to be decided by his oath; that is to ſay, if he will betray the truſt repoſed in him, and perjure himſelf, he may ſometimes exempt a villain from the puniſhment he deſerves, and take the guilt upon himſelf. I ſay ſometimes; for appeals may be brought in ſome caſes, and the waterman who had been pardoned by his majeſty in the year 1680, for a murder he had committed, was condemned, and hanged, at the aſſizes upon an appeal. Nay, in caſes of

CHAP. III treaſon, which ſome men think relate moſt particularly to the perſon of the king, he cannot always do it. Gaveſton, the two Spencers, Treſilian, Empſon, Dudley, and others, have been executed as traitors for things done by the king's command; and it is not doubted but they would have been ſaved, if the king's power had extended ſo far. I might add the caſes of the earls of Strafford and Danby; for, though the king ſigned a warrant for the execution of the firſt, no man doubts but he would have ſaved him, if it had been in his power. The other continues in priſon, notwithſtanding his pardon; and, for any thing I know, he may continue where he is, or come out in a way that will not be to his ſatisfaction, unleſs he be found innocent, or ſomething fall out more to his advantage than his majeſty's approbation of what he has done. If therefore the king cannot interpoſe his authority to hinder the courſe of the law in conteſts between private men, nor remit the debts adjudged to be due, or the damages given to the perſons aggrieved, he can in his own perſon have no other power in things of this nature, than in ſome degree to mitigate the vindictive power of the law; and this alſo is to be exerciſed no other way than as he is entruſted. But if he acts, even in this capacity, by a delegated power, and in few caſes, he muſt act according to the ends for which he is ſo entruſted, as the ſame law ſays, "cum magnatum et ſapientum conſilio;" and is not therein to purſue his own will and intereſts; if his oath farther oblige him not to do it, and his miniſters are liable to puniſhment, if they adviſe him otherwiſe; if in matters of appeal he have no power; and if his pardons have been of no value, when, contrary to his oath, he has abuſed that with which he is entruſted, to the patronizing of crimes, and exempting ſuch delinquents from puniſhment, as could not be pardoned without prejudice to the public, I may juſtly conclude, that the king, before whom every man is bound to appear, who does perpetually and impartially diſtribute juſtice to the nation, is not the man or woman that wears the crown; and that he or ſhe cannot determine thoſe matters, which, by the law, are referred to the king. Whether therefore ſuch matters are ordinary or extraordinary, the deciſion is and ought to be placed where there is moſt wiſdom and ſtability, and where paſſion and private intereſt does leaſt prevail to the obſtruction of juſtice. This is the only way to obviate that confuſion and miſchief, which our author thinks it would introduce. In caſes of the firſt ſort, this is done in England by judges and juries: in the other by the parliament, which, being the repreſentative body of the people, and the collected wiſdom of the nation, is leaſt ſubject to error, moſt exempted from paſſion, and moſt free from corruption, their own good, both public and private, depending upon the rectitude of their ſanctions. They cannot do any thing that is ill without damage to themſelves, and their poſterity; which being all that can be done by human underſtanding, our lives, liberties, and properties, are by our laws directed to depend upon them.

SECTION XLIII

PROCLAMATIONS ARE NOT LAWS.

Our author, according to his uſual method and integrity, lays great weight upon proclamations, as the ſignifications of the king's pleaſure, which in his opinion is our only law. But neither law nor reaſon openly directing, nor by conſequences inſinuating, that ſuch a power ſhould be put into an uncertain or ſuſpected hand, we may ſafely deny them to be laws, or in any ſenſe to have the effect of laws. Nay, they cannot be ſo much as ſignifications of his will; for, as he is king, he can have no will but as the law directs. If he depart from the law, he is no longer king, and his will is nothing to us. Proclamations, at moſt, are but temporary, by the advice of the council, in purſuance of the law. If they be not ſo, the ſubject is no way obliged to obey them, and the counſellors are to be puniſhed for them. Theſe laws are either immemorial cuſtoms, or ſtatutes. The firſt have their beginning and continuance from the univerſal conſent of the nation. The latter receive their authority and force of laws from parliaments, as is frequently expreſſed in the preambles. Theſe are, under God, the beſt defence of our lives, liberties, and eſtates: they proceed not from the blind, corrupt, and fluctuating humour of a man, but from the mature deliberation of the choiceſt perſons of the nation, and ſuch as have the greateſt intereſt in it. Our anceſtors have always relied upon theſe laws; and it is to be hoped we ſhall not be ſo abandoned by God, ſo deprived of courage and common ſenſe, as to ſuffer ourſelves to be cheated of the inheritance which they have ſo frequently, ſo bravely, and ſo conſtantly defended. Though experience has too well taught us, that parliaments may have their failings, and that the vices, which are induſtriouſly ſpread among them, may be too prevalent, yet they are the beſt helps we have; and we may much more reaſonably depend upon them, than upon thoſe who propagate that corruption among them, for which only they can deſerve to be ſuſpected. We hope they will take care of our concernments, ſince they are as other men ſo ſoon as a ſeſſion is ended, and can do nothing to our prejudice that will not equally affect them, and their poſterity; beſides the guilt of betraying their country, which can never be waſhed off. If ſome ſhould prove falſe to their truſt, it is probable that others would continue in their integrity. Or if the baſe arts, which are uſually practiſed by thoſe who endeavour to delude, corrupt, enſlave, and ruin nations, ſhould happen to prevail upon the youngeſt and weakeſt, it may be reaſonably hoped, that the wiſeſt will ſee the ſnares, and inſtruct their companions to avoid them. But if all things were ſo put into the hands of one man, that his proclamations were to be eſteemed laws, the nation would be expoſed to ruin, as ſoon as it ſhould chance to fall into an ill hand. It is in vain to ſay we have a

CHAP. III good king, who will not make an ill uſe of his power; for even the beſt are ſubject to be deceived by flatterers, and crowned heads are almoſt ever encompaſſed by them. The principal art of a courtier is to obſerve his maſter's paſſions, and to attack him on that ſide where he ſeems to be moſt weak. It would be a ſtrange thing to find a man impregnable in every part; and, if he be not, it is impoſſible he ſhould reſiſt all the attempts that are made upon him. If his judgment come to be prepoſſeſſed, he and all that depend on him are loſt. Contradictions, though never ſo juſt, are then unſafe; and no man will venture upon them, but he who dares ſacrifice himſelf for the public good. The nature of man is frail, and ſtands in need of aſſiſtance. Virtuous actions, that are profitable to a commonwealth, ought to be made, as far as it is poſſible, ſafe, eaſy, and advantageous; and it is the utmoſt imprudence, to tempt men to be enemies to the public, by ſuffering the moſt pernicious actions to be the means of obtaining honour and favour, while no man can ſerve his country, but with the ruin of himſelf, and his family.

However, in this caſe, the queſtion is not concerning a perſon: the ſame counſels are to be followed, when Moſes or Samuel is in the throne, as if Caligula had invaded it. Laws ought to aim at perpetuity; but the virtues of a man die with him, and very often before him. They, who have deſerved the higheſt praiſes for wiſdom and integrity, have frequently left the honours they enjoyed to fooliſh and vicious children. If virtue may in any reſpect be ſaid to outlive the perſon, it can only be when good men frame ſuch laws and conſtitutions as by favouring it preſerve themſelves. This has never been done otherwiſe, than by balancing the powers in ſuch a manner, that the corruption which one or a few men might fall into, ſhould not be ſuffered to ſpread the contagion to the ruin of the whole. The long continuance of Lycurgus's laws is to be attributed to this. They reſtrained the luſts of kings, and reduced thoſe to order who adventured to tranſgreſs them: whereas the whole fabric muſt have fallen to the ground in a ſhort time, if the firſt that had a fancy to be abſolute, had been able to effect his deſign. This has been the fate of all governments that were made to depend upon the virtue of a man, which never continues long in any family; and, when that fails, all is loſt. The nations therefore that are ſo happy as to have good kings ought to make a right uſe of them, by eſtabliſhing the good that may outlaſt their lives. Thoſe of them that are good will readily join in this work, and take care, that their ſucceſſors may be obliged, in doing the like, to be equally beneficial to their own families, and the people they govern. If the rulers of nations be reſtrained, not only the people is by that means ſecured from the miſchiefs of their vices and follies, but they themſelves are preſerved from the greateſt temptations to ill, and the terrible effects of the vengeance that frequently enſues upon it. An unlimited prince might be juſtly compared to a weak ſhip expoſed to a violent ſtorm, with a vaſt ſail, and no rudder. We have an eminent example of this in the book of Eſther. A wicked villain having filled the ears of a fooliſh king with falſe ſtories of

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the Jews, he iſſues out a proclamation for their utter extirpation; and not SECT. 43
long after, being informed of the truth, he gave them leave by another proclamation to kill whom they pleaſed, which they executed upon ſeventy thouſand men. The books of Ezra, Nehemiah, and Daniel, manifeſtly diſcover the like fluctuation in all the councils of Nabuchodonoſor, Cyrus, Darius, and Artaxerxes. When good men had credit with them, they favoured the Iſraelites; ſent them back to their own country; reſtored the ſacred veſſels, that had been taken away; gave them all things neceſſary for the rebuilding of the city; and advanced the chief of them to the higheſt employments. But if they fell into ill hands, three juſt men muſt be thrown into the burning furnace for refuſing to worſhip an idol; Daniel muſt be caſt to the lions; the holy city eſteemed rebellious, and thoſe who endeavoured to rebuild it, enemies to kings. Such was the ſtate of things, when their proclamations paſſed for laws; and numbers of flattering ſlaves were ready to execute their commands, without examining whether they were juſt or unjuſt, good or bad. The life of the beſt men, together with the very being of nations, was expoſed to chance; and they were either preſerved or deſtroyed according to the humour of that man who ſpoke laſt to the king, or happened to have credit with him. If a frantic fancy come into the head of a drunken whore, Perſepolis muſt be burnt, and the hand of Alexander is ready to execute her will. If a dancing wench pleaſe Herod, the moſt venerable of all human heads muſt be offered in a diſh for a ſacrifice to the rage of her impure mother. The nature of man is ſo frail, that where-ever the word of a ſingle perſon has had the force of a law, the innumerable extravagances and miſchiefs it has produced have been ſo notorious, that all nations who are not ſtupid, ſlaviſh, and brutiſh, have always abominated it, and made it their principal care to find out remedies againſt it, by ſo dividing and balancing the powers of their government, that one or a few men might not be able to oppreſs and deſtroy thoſe they ought to preſerve and protect. This has always been as grateful to the beſt and wiſeſt princes, as neceſſary to the weakeſt and worſt, as I have proved already by the examples of Theopompus, Moſes, and many others. Theſe conſiderations have given beginning, growth, and continuance, to all the mixed governments that have been in the world; and I may juſtly ſay, there never was a good one that was not mixed. If other proofs of their rectitude were wanting, our author's hatred would be enough to juſtify them. He is ſo bitter an enemy to mankind, as to be diſpleaſed with nothing but that which tends to their good, and ſo perverſe in his judgment, that we have reaſon to believe that to be good, which he moſt abhors. One would think he had taken the model of the government he propoſes, from the monſtrous tyranny of Ceylon, an iſland in the Eaſt-Indies, where the king knows no other law than his own will. He kills, tears in pieces, impales, or throws to his elephants, whomſoever he pleaſes: no man has any thing that he can call his own: he ſeldom fails to deſtroy thoſe who have been employed in his domeſtic ſervice, or public offices; and few obtain the favour of being

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CHAP. III put to death, and thrown to the dogs, without torments. His ſubjects approach him no otherwiſe, than on their knees, licking the duſt, and dare aſſume to themſelves no other name than that of dogs, or limbs of dogs. This is a true pattern of Filmer's patriarchal monarch. His majeſty, I ſuppoſe, is ſufficiently exalted; for he does whatever he pleaſes. The exerciſe of his power is as gentle as can reaſonably be expected from one who has all by the unqueſtionable right of uſurpation; and knows the people will no longer ſuffer him, and the villains he hires to be the inſtruments of his cruelty, than they can be kept in ſuch ignorance, weakneſs, and baſeneſs, as neither to know how to provide for themſelves, or dare to reſiſt him. We ought to eſteem ourſelves happy, if the like could be eſtabliſhed among us; and are much obliged to our author for ſo kindly propoſing an expedient that might terminate all our diſputes. Let proclamations obtain the power of laws, and the buſineſs is done. They may be ſo ingeniouſly contrived, that the antient laws, which we and our fathers have highly valued, ſhall be aboliſhed, or made a ſnare to all thoſe that dare remember they are Engliſhmen, and are guilty of the unpardonable crime of loving their country, or have the courage, conduct, and reputation required to defend it. This is the ſum of Filmer's philoſophy, and this is the legacy he has left to teſtify his affection to the nation; which having for a long time lain unregarded, has been lately brought into the light again, as an introduction of a popiſh ſucceſſor, who is to be eſtabliſhed, as we ought to believe, for the ſecurity of the proteſtant religion, and our Engliſh liberties. Both will undoubtedly flouriſh under a prince, who is made to believe the kingdom is his patrimony; that his will is a law; and that he has a power, which none may reſiſt. If any man doubt whether he will make a good uſe of it, he may only examine the hiſtories of what others, in the ſame circumſtances, have done in all places, where they have had power. The principles of that religion are ſo full of meekneſs and charity; the popes have always ſhewed themſelves ſo gentle towards thoſe who would not ſubmit to their authority; the Jeſuits, who may be accounted the ſoul that gives life to the whole body of the faction, are ſo well-natured, faithful, and exact in their morals; ſo full of innocence, juſtice, and truth; that no violence is to be feared from ſuch as are governed by them. The fatherly care ſhewed to the proteſtants of France, by the five laſt kings of the houſe of Valois; the mercy of Philip the ſecond of Spain to his pagan ſubjects in the Weſt-Indies, and the more hated proteſtants in the Netherlands; the moderation of the dukes of Savoy towards the Vaudois in the marquiſate of Saluzzo and the vallies of Piedmont; the gentleneſs and faith of the two Maries, queens of England and Scotland; the kindneſs of the papiſts to the proteſtants of Ireland in the year 1641, with what we have reaſon to believe they did and do ſtill intend, if they can accompliſh the ends of their conſpiracy; in a word, the ſweetneſs and apoſtolical meekneſs of the inquiſition, may ſufficiently convince us that nothing is to be feared where that principle reigns. We may ſuffer the word of ſuch a prince to be a law, and the people to be made to believe it ought to be

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ſo, when he is expected. Though we ſhould wave the bill of excluſion, SECT. 44
and not only admit him to reign as other kings have done, but reſign the whole power into his hands, it would neither bring inconvenience or danger on the preſent king. He can with patience expect, that nature ſhould take her courſe, and would neither anticipate nor ſecure his entrance into the poſſeſſion of the power, by taking one day from the life of his brother. Though the papiſts know, that, like a true ſon of their church, he would prefer the advancement of their religion before all other conſiderations; and that one ſtab with a dagger, or a doſe of poiſon, would put all under his feet; not one man would be found among them to give it. The aſſaſſins were Mahometans, not pupils of the honeſt Jeſuits, nor ever employed by them. Theſe things being certain, all our concernments would be ſecure, if, inſtead of the fooliſh ſtatutes, and antiquated cuſtoms, on which our anceſtors and we have hitherto doted, we may be troubled with no law but the king's will, and a proclamation may be taken for a ſufficient declaration of it. We ſhall by this means be delivered from that "liberty with a miſchief," in which our miſtaken nation ſeems ſo much to delight. This phraſe is ſo new, and ſo peculiar to our author, that it deſerves to be written upon his tomb. We have heard of "tyranny with "a miſchief, ſlavery and bondage with a miſchief;" and they have been denounced by God againſt wicked and perverſe nations, as miſchiefs comprehending all that is moſt to be abhorred and dreaded in the world. But Filmer informs us, that liberty, which all wiſe and good men have in all ages eſteemed to be the moſt valuable and glorious privilege of mankind, is "a miſchief." If he deſerve credit, Moſes, Joſhua, Gideon, Samſon, and Samuel, with others like them, were enemies to their country, in depriving the people of the advantages they enjoyed under the paternal care of Pharaoh, Adonibezek, Eglon, Jabin, and other kings of the neighbouring nations, and reſtoring them to that "liberty with a miſchief," which he had promiſed to them. The Iſraelites were happy under the power of tyrants, whoſe proclamations were laws; and they ought to have been thankful to God for that condition, and not for the deliverances he wrought by the hands of his ſervants. Subjection to the will of a man is happineſs, liberty is a "miſchief." But this is ſo abominably wicked and deteſtable, that it can deſerve no anſwer.

SECTION XLIV

A PEOPLE THAT IS NOT FREE CANNOT SUBSTITUTE DELEGATES.

How full ſoever the power of any perſon or people may be, he or they are obliged to give only ſo much to their delegates, as ſeems convenient to themſelves, or conducing to the ends they deſire to attain; but the delegate can have none, except what is conferred upon him by his principal. If

CHAP. III therefore the knights, citizens, and burgeſſes, ſent by the people of England to ſerve in parliament, have a power, it muſt be more perfectly and fully in thoſe that ſend them. But (as was proved in the laſt ſection) proclamations, and other ſignifications of the king's pleaſure, are not laws to us. They are to be regulated by the law, not the law by them. They are to be conſidered only ſo far as they are conformable to the law, from which they receive all the ſtrength that is in them, and can confer none upon it. We know no laws but our own ſtatutes, and thoſe immemorial cuſtoms eſtabliſhed by the conſent of the nation; which may be, and often are, changed by us. The legiſlative power therefore, that is exerciſed by the parliament, cannot be conferred by the writ of ſummons, but muſt be eſſentially and radically in the people, from whom their delegates and repreſentatives have all that they have. But, ſays our author, "they muſt "only chooſe, and truſt thoſe whom they chooſe, to do what they liſt; "and that is as much liberty as many of us deſerve for our irregular "elections of burgeſſes." This is ingeniouſly concluded: I take what ſervant I pleaſe, and, when I have taken him, I muſt ſuffer him to do what he pleaſes. But from whence ſhould this neceſſity ariſe? Why may not I take one to be my groom, another to be my cook, and keep them both to the offices for which I took them? What law does herein reſtrain my right? And if I am free in my private capacity to regulate my particular affairs according to my own diſcretion, and to allot to each ſervant his proper work, why have not I, with my aſſociates, the freemen of England, the like liberty of directing and limiting the powers of the ſervants we employ in our public affairs? Our author gives us reaſons proportionable to his judgment: "this were liberty with a miſchief; and that of chooſing "only is as much as many of us deſerve." I have already proved, that, as far as our hiſtories reach, we have had no princes or magiſtrates, but ſuch as we have made, and they have had no other power than what we have conferred upon them. They cannot be the judges of our merit, who have no power but what we gave them, through an opinion they did or might deſerve it. They may diſtribute in parcels to particulars that with which they are entruſted in the groſs. But it is impoſſible, that the public ſhould depend abſolutely upon thoſe who are nothing above other men, except what they are made to be for and by the public. The reſtrictions therefore of the people's liberty muſt be from themſelves, or there can be none.

Nevertheleſs I believe, that the powers of every county, city, and borough of England, are regulated by the general law to which they have all conſented, and by which they are all made members of one political body. This obliges them to proceed with their delegates in a manner different from that which is uſed in the United Netherlands, or in Switzerland. Among theſe, every province, city, or canton, making a diſtinct body independent from any other, and exerciſing the ſovereign power within itſelf, looks upon the reſt as allies, to whom they are bound only by ſuch acts as they themſelves have made; and when any new thing not comprehended

comprehended in them happens to ariſe, they oblige their delegates to SECT. 44.
give them an account of it, and retain the power of determining thoſe matters in themſelves. It is not ſo among us: every county does not make a diſtinct body, having in itſelf a ſovereign power, but is a member of that great body which comprehends the whole nation. It is not therefore for Kent or Suſſex, Lewis or Maidſtone, but for the whole nation, that the members choſen in thoſe places are ſent to ſerve in parliament. And though it be fit for them as friends and neighbours, ſo far as may be, to hearken to the opinions of the electors for the information of their judgments, and to the end that what they ſhall ſay may be of more weight, when every one is known not to ſpeak his own thoughts only, but thoſe of a great number of men, yet they are not ſtrictly and properly obliged to give account of their actions to any, unleſs the whole body of the nation for which they ſerve, and who are equally concerned in their reſolutions, could be aſſembled. This being impracticable, the only puniſhment to which they are ſubject, if they betray their truſt, is ſcorn, infamy, hatred, and an aſſurance of being rejected, when they ſhall again ſeek the ſame honour. And though this may ſeem a ſmall matter to thoſe who fear to do ill only from a ſenſe of the pains inflicted; yet it is very terrible to men of ingenuous ſpirits, as they are ſuppoſed to be, who are accounted fit to be entruſted with ſo great powers. But why it ſhould be called "liberty with a miſchief," if it were otherwiſe, or how the liberty of particular ſocieties would be greater, if they might do what they pleaſed, than whilſt they ſend others to act for them, ſuch wiſe men only as Filmer can tell us. For as no man, or number of men, can give a power which he or they have not, the Achaians, Etolians, Latins, Samnites, and Tuſcans, who tranſacted all things relating to their aſſociations by delegates; and the Athenians, Carthaginians, and Romans, who kept the power of the ſtate in themſelves, were all equally free. And in our days, the United Provinces of the Netherlands, the Switzers, and Griſons, who are of the firſt ſort, and the Venetians, Genoeſe, and Luccheſe, who are of the other, are ſo alſo. All men that have any degree of common ſenſe plainly ſee, that the liberty of thoſe who act in their own perſons, and of thoſe who ſend delegates, is perfectly the ſame, and the exerciſe is, and can only be changed by their conſent.

But whatever the law or cuſtom of England be in this point, it cannot concern our queſtion. The general propoſition concerning a patriarchal power cannot be proved by a ſingle example. If there be a general power every where, forbidding nations to give inſtructions to their delegates, they can do it no where. If there be no ſuch thing, every people may do it, unleſs they have deprived themſelves of their right, all being born under the ſame condition. It is to no purpoſe to ſay, that the nations before-mentioned had not kings, and therefore might act as they did. For, if the general theſis be true, they muſt have kings; and, if it be not, none are obliged to have them, unleſs they think fit, and the kings they make are their creatures. But many of theſe nations had either kings,

CHAP. III or other magiſtrates in power like to them. The provinces of the Netherlands had dukes, earls, or marquiſes: Genoa and Venice have dukes. If any, on account of the narrowneſs of their territories, have abſtained from the name, it does not alter the caſe; for our diſpute is not concerning the name, but the right. If that one man, who is in the principal magiſtracy of every nation, muſt be reputed the father of that people, and has a power which may not be limited by any law, it imports not what he is called. But if in ſmall territories he may be limited by laws, he may be ſo alſo in the greateſt. The leaſt of men is a man as well as a giant: and thoſe in the Weſt-Indies, who have not above twenty or thirty ſubjects able to bear arms, are kings as well as Xerxes. Every nation may divide itſelf into ſmall parcels, as ſome have done, by the ſame law, by which they have reſtrained or aboliſhed their kings, joined to one another, or taken their hazard of ſubſiſting by themſelves, acted by delegation, or retained the power in their own perſons, given finite or indefinite powers, reſerved to themſelves a power of puniſhing thoſe who ſhould depart from their duty, or referred it to their general aſſemblies. And that liberty, for which we contend, as the gift of God and nature, remains equally to all.

If men who delight in cavilling ſhould ſay, that great kingdoms are not to be regulated by the examples of ſmall ſtates, I deſire to know, when it was, that God ordained great nations ſhould be ſlaves, and deprived of all right to diſpoſe matters relating to their government; whilſt he left to ſuch as had, or ſhould divide themſelves into ſmall parcels, a right of making ſuch conſtitutions as were moſt convenient for them. When this is reſolved, we ought to be informed, what extent of territory is required to deſerve the name of a great kingdom. Spain and France are eſteemed great, and yet the deputies or procuradores of the ſeveral parts of Caſtile did in the cortes held at Madrid, in the beginning of Charles the fifth's reign, excuſe themſelves from giving the ſupplies he deſired, becauſe they had received no orders in that particular from the towns that ſent them; and afterwards receiving expreſs order not to do it, they gave his majeſty a flat denial *. The like was frequently done during the reigns of that great prince, and of his ſon Philip the ſecond. And generally thoſe procuradores never granted any thing of importance to either of them, without particular orders from their principals. The ſame way was taken in France, as long as there were any general aſſemblies of eſtates; and, if it do not ſtill continue, it is becauſe there are none. For no man who underſtood the affairs of that kingdom did ever deny, that the deputies were obliged to follow the orders of thoſe who ſent them. And perhaps, if men would examine by what means they came to be aboliſhed, they might find, that the cardinals de Richelieu and Mazarin, with other miniſters who have accompliſhed that work, were actuated by ſome other principle than that of juſtice, or the eſtabliſhment of the laws of

* Hiſt. de la Vida del Emperador Carlos v, por Sandoval.

God

God and nature. In the general aſſembly of eſtates held at Blois in the time of Henry the third, Bodin then deputy for the third eſtate of Vermandois, by their particular order, propoſed ſo many things as took up a great part of their time. Other deputies alleged no other reaſon for many things ſaid and done by them, highly contrary to the king's will, than that they were commanded to do ſo by their ſuperiors *. Theſe general aſſemblies being laid aſide, the ſame cuſtom is ſtill uſed in the leſſer aſſemblies of eſtates in Languedoc and Brittany. The deputies cannot, without the infamy of betraying their truſt, and fear of puniſhment, recede from the orders given by their principals; and yet we do not find, that "liberty with a miſchief" is much more predominant in France than among us. The ſame method is every day practiſed in the diets of Germany. The princes and great lords, who have their places in their own right, may do what they pleaſe: but the deputies of the cities muſt follow ſuch orders as they receive. The hiſtories of Denmark, Sweden, Poland, and Bohemia, teſtify the ſame thing: and if this "liberty with a miſchief" do not ſtill continue entire in all thoſe places, it has been diminiſhed by ſuch means as ſuit better with the manners of pirates, than the laws of God and nature. If England therefore do not ſtill enjoy the ſame, we muſt have been deprived of it either by ſuch unjuſtifiable means, or by our own conſent. But thanks be to God, we know no people who have a better right to liberty, or have better defended it, than our nation. And if we do not degenerate from the virtue of our anceſtors, we may hope to tranſmit it entire to our poſterity. We always may, and often do, give inſtructions to our delegates; but the leſs we fetter them, the more we manifeſt our own rights: for thoſe who have only a limited power muſt limit that which they give; but they that can give an unlimited power muſt neceſſarily have it in themſelves. The great treaſurer Burleigh ſaid, the parliament could do any thing but turn a man into a woman. Sir Thomas More, when Rich ſolicitor to king Henry the eighth aſked him, if the parliament might not make Richard Rich king, ſaid, that was "caſus "levis," taking it for granted that they might make or unmake whom they pleaſed †. The firſt part of this, which includes the other, is aſſerted by the ſtatute of the 13th of queen Elizabeth, denouncing the moſt grievous puniſhments againſt all ſuch as ſhould dare to contradict it ‡. But if it be in the parliament, it muſt be in thoſe who give to parliament-men the powers by which they act; for before they are choſen, they have none, and can never have any, if thoſe that ſend them had it not in themſelves. They cannot receive it from the magiſtrate; for that power which he has is derived from the ſame ſpring. The power of making

SECT. 44

* Thuani Hiſt. l. 63 † Herbert's Life of Hen. VIII, anno 1535

‡ "Whoſoever ſhall during the queen's life by any book, or work written or printed, "expreſsly affirm, before the ſame be eſtabliſhed by parliament, that any one particular "perſon is, or ought to be heir and ſucceſſor to the queen, except the ſame be the natural "iſſue of her body . . . ſhall for the firſt offence be a whole year impriſoned, and forfeit "half his goods, and for the ſecond offence ſhall incur the penalty of praemunire." 13 Eliz. c. 1

CHAP. III and unmaking him cannot be from himſelf; for he that is not can do nothing; and when he is made, can have no other power than is conferred upon him by thoſe that make him. Beſides, he who departs from his duty deſires to avoid the puniſhment: the power therefore of puniſhing him is not from himſelf. It cannot be from the houſe of peers, as it is conſtituted; for they act for themſelves, and are choſen by kings: and it is abſurd to think, that kings, who generally abhor all reſtriction of their power, ſhould give that to others by which they might be unmade. If one or more princes, relying upon their own virtue and reſolutions to do good, had given ſuch a power againſt themſelves, as Trajan did, when he commanded the prefect to uſe the ſword for him, if he governed well, and againſt him, if he governed ill, it would ſoon have been reſcinded by their ſucceſſors. If our Edward the firſt had made ſuch a law, his lewd ſon would have aboliſhed it, before he would have ſuffered himſelf to be impriſoned and depoſed by it. He would never have acknowledged his unworthineſs to reign, if he had been tied to no other law than his own will; for he could not tranſgreſs that; nor have owned the mercy of the parliament, in ſparing his life, if they had acted only by a power, which he had conferred upon them. This power muſt therefore be in thoſe, who act by a delegated power; and none can give it to their delegates, but they who have it in themſelves. The moſt certain teſtimony that can be given, of their unlimited power, is, that they rely upon the wiſdom and fidelity of their deputies, ſo as to lay no reſtrictions upon them: they may do what they pleaſe, if they take care, "ne quid detrimenti reſpub-"lica accipiat," "that the commonwealth receive no detriment." This is a commiſſion fit to be granted by wiſe and good men to thoſe they chooſe, through an opinion that they are ſo alſo, and that they cannot bring any prejudice upon the nation, that will not fall upon themſelves, and their poſterity. This is alſo fit to be received by thoſe, who, ſeeking nothing, but that which is juſt in itſelf, and profitable to their country, cannot foreſee what will be propoſed when they are all met together; much leſs reſolve how to vote, till they hear the reaſons on both ſides. The electors muſt neceſſarily be in the ſame ignorance; and the law which ſhould oblige them to give particular orders to their knights and burgeſſes, in relation to every vote, would make the deciſion of the moſt important affairs to depend upon the judgment of thoſe, who know nothing of the matters in queſtion, and by that means caſt the nation into the utmoſt danger of the moſt inextricable confuſion. This can never be the intention of that law, which is "ſanctio recta," and ſeeks only the good of thoſe that live under it. The foreſight therefore of ſuch a miſchief can never impair the liberties of the nation, but eſtabliſh them.

SECTION XLV

THE LEGISLATIVE POWER IS ALWAYS ARBITRARY, AND NOT TO BE TRUSTED IN THE HANDS OF ANY WHO ARE NOT BOUND TO OBEY THE LAWS THEY MAKE.

If it be objected, that I am a defender of arbitrary powers, I confeſs I cannot comprehend how any ſociety can be eſtabliſhed or ſubſiſt without them; for the eſtabliſhment of government is an arbitrary act, wholly depending upon the will of man. The particular forms and conſtitutions, the whole ſeries of the magiſtracy, together with the meaſure of power given to every one, and the rules by which they are to exerciſe their charge, are ſo alſo. Magna Charta, which comprehends our antient laws, and all the ſubſequent ſtatutes, were not ſent from heaven, but made according to the will of men. If no men could have a power of making laws, none could ever have been made; for all that are or have been in the world, except thoſe given by God to the Iſraelites, were made by them; that is, they have exerciſed an arbitrary power in making that to be law which was not, or annulling that which was. The various laws and governments, that are or have been in ſeveral ages and places, are the product of various opinions in thoſe who had the power of making them. This muſt neceſſarily be, unleſs a general rule be ſet to all; for the judgments of men will vary, if they are left to their liberty; and the variety that is found among them ſhews they are ſubject to no rule, but that of their own reaſon, by which they ſee what is fit to be embraced or avoided, according to the ſeveral circumſtances under which they live. The authority that judges of theſe circumſtances is arbitrary, and the legiſlators ſhew themſelves to be more or leſs wiſe and good, as they do rightly, or not rightly exerciſe this power. The difference therefore between good and ill governments is not, that thoſe of one ſort have an arbitrary power which the others have not, for they all have it; but that thoſe which are well conſtituted, place this power ſo as it may be beneficial to the people, and ſet ſuch rules as are hardly to be tranſgreſſed; whilſt thoſe of the other ſort fail in one or both theſe points. Some alſo through want of courage, fortune, or ſtrength, may have been oppreſſed by the violence of ſtrangers, or have ſuffered a corrupt party to riſe up within themſelves, and by force or fraud to uſurp a power of impoſing what they pleaſed. Others, being ſottiſh, cowardly, and baſe, have ſo far erred in the foundations, as to give up themſelves to the will of one or a few men, who, turning all to their own profit or pleaſure, have been juſt in nothing but in uſing ſuch a people like beaſts. Some have placed weak defences againſt the luſts of thoſe they have advanced to the higheſt places, and given them opportunities of arrogating more power to themſelves than the law allows. Where any of theſe errors are committed, the govern-

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CHAP. III ment may be eaſy for a while, or at leaſt tolerable, whilſt it continues uncorrupted; but it cannot be laſting. When the law may be eaſily or ſafely overthrown, it will be attempted. Whatever virtue may be in the firſt magiſtrates, many years will not paſs before they come to be corrupted; and their ſucceſſors, deflecting from their integrity, will ſeize upon the ill-guarded prey. They will then not only govern by will, but by that irregular will, which turns the law, that was made for the public good, to the private advantage of one or few men. It is not my intention to enumerate the ſeveral ways that have been taken to effect this; or to ſhew what governments have deflected from the right, and how far. But I think I may juſtly ſay, that an arbitrary power was never well placed in any men, and their ſucceſſors, who were not obliged to obey the laws they ſhould make. This was well underſtood by our Saxon anceſtors: they made laws in their aſſemblies and councils of the nation; but all thoſe who propoſed or aſſented to thoſe laws, as ſoon as the aſſembly was diſſolved, were comprehended under the power of them, as well as other men. They could do nothing to the prejudice of the nation, that would not be as hurtful to thoſe who were preſent, and their poſterity, as to thoſe who by many accidents might be abſent. The Normans entered into, and continued in the ſame path. Our parliaments at this day are in the ſame condition. They may make prejudicial wars, ignominious treaties, and unjuſt laws: yet when the ſeſſion is ended, they muſt bear the burden as much as others; and, when they die, the teeth of their children will be ſet on edge with the ſour grapes they have eaten. But it is hard to delude or corrupt ſo many: men do not in matters of the higheſt importance yield to ſlight temptations. No man ſerves the devil for nothing: ſmall wages will not content thoſe who expoſe themſelves to perpetual infamy, and the hatred of a nation for betraying their country. Our kings had not wherewithal to corrupt many till theſe laſt twenty years, and the treachery of a few was not enough to paſs a law. The union of many was not eaſily wrought, and there was nothing to tempt them to endeavour it; for they could make little advantage during the ſeſſion, and were to be loſt in the maſs of the people, and prejudiced by their own laws, as ſoon as it was ended. They could not in a ſhort time reconcile their various intereſts or paſſions, ſo as to combine together againſt the public; and the former kings never went about it. We are beholden to Hyde, Clifford, and Danby, for all that has been done of that kind. They found a parliament full of lewd young men choſen by a furious people in ſpite to the puritans, whoſe ſeverity had diſguſted them. The weakeſt of all miniſters had wit enough to underſtand, that ſuch as theſe might be eaſily deluded, corrupted, or bribed. Some were fond of their ſeats in parliament, and delighted to domineer over their neighbours by continuing in them: others preferred the cajoleries of the court before the honour of performing their duty to their country that employed them. Some ſought to relieve their ruined fortunes, and were moſt forward to give the king a vaſt revenue, that from thence they might

receive penſions: others were glad of a temporary protection againſt their creditors. Many knew not what they did when they annulled the triennial act; voted the militia to be in the king; gave him the exciſe, cuſtoms, and chimney-money; made the act for corporations, by which the greateſt part of the nation was brought under the power of the worſt men in it; drunk or ſober paſſed the five-mile act, and that for uniformity in the church. This emboldened the court to think of making parliaments to be the inſtruments of our ſlavery, which had in all ages paſt been the firmeſt pillars of our liberty. There might have been perhaps a poſſibility of preventing this pernicious miſchief in the conſtitution of our government. But our brave anceſtors could never think their poſterity would degenerate into ſuch baſeneſs as to ſell themſelves, and their country. Yet how great ſoever the danger may be, it is leſs than to put all into the hands of one man, and his miniſters. The hazard of being ruined by thoſe who muſt periſh with us is not ſo much to be feared, as by one who may enrich and ſtrengthen himſelf by our deſtruction. It is better to depend upon thoſe who are under a poſſibility of being again corrupted, than upon one who applies himſelf to corrupt them, becauſe he cannot otherwiſe accompliſh his deſigns. It were to be wiſhed, that our ſecurity were more certain; but this being, under God, the beſt anchor we have, it deſerves to be preſerved with all care, till one of a more unqueſtionable ſtrength be framed by the conſent of the nation. SECT. 46

SECTION XLVI

THE COERCIVE POWER OF THE LAW PROCEEDS FROM THE AUTHORITY OF PARLIAMENT.

Having proved that proclamations are not laws, and that the legiſlative power, which is arbitrary, is truſted only in the hands of thoſe who are bound to obey the laws that are made, it is not hard to diſcover what it is that gives the power of law to the ſanctions under which we live. Our author tells us, "that all ſtatutes or laws are made properly by the "king alone, at the rogation of the people, as his majeſty king James "of happy memory affirms in his True Law of free Monarchy *; and "as Hooker teaches us, that laws do not take their conſtraining power "from the quality of ſuch as deviſe them, but from the power that giveth

* "In the parliament, which is nothing elſe but the head court of the king and his "vaſſals, the laws are but craved by his ſubjects, and only made by him at their rogation, "and with their advice. For albeit the king make daily ordinances, enjoining ſuch pains "thereto as he thinks meet, without any advice of parliament or eſtates, yet it lies in the "power of no parliament, to make any kind of law or ſtatute, without his ſceptre be to it, "for giving it the force of a law." True Law of Free Monarchies. See K. James's Works, p. 202. Edit. 1616

"them

CHAP. III

them the ſtrength of laws *." But if the rogation of the people be neceſſary, that cannot be a law which proceeds not from their rogation: the power therefore is not alone in the king; for a moſt important part is confeſſed to be in the people. And as none could be in them, if our author's propoſition, or the principles upon which it is grounded, were true, the acknowledgement of ſuch a part to be in the people ſhews them to be falſe. For if the king had all in himſelf, none could participate with him: if any do participate, he hath not all; and it is from that law by which they do participate, that we are to know what part is left to him. The preambles of moſt acts of parliaments manifeſt this by the words, "be it enacted by the lords ſpiritual and temporal, and commons, "in parliament aſſembled, and by authority of the ſame." But king James, ſays Filmer, "in his Law of free Monarchy, affirms the contrary:" and it may be ſo; yet that is nothing to us. No man doubts, but that he deſired it might be ſo in England: but it does not from thence appear, that it is ſo. The law of a free monarchy is nothing to us; for that monarchy is not free, which is regulated by a law not to be broken without the guilt of perjury, as he himſelf confeſſed in relation to ours §. As to the words cited from Hooker, I can find no hurt in them. To draw up the form of a good law is a matter of invention and judgment; but it receives the force of a law from the power that enacts it. We have no other reaſon for the payment of exciſe or cuſtoms, than that the parliament has granted thoſe revenues to the king to defray the public charges. Whatever therefore king James was pleaſed to ſay in his books, or in thoſe written for him, we do not ſo much as know that the killing of a king is treaſon, or to be puniſhed with death, otherwiſe than as it is enacted by parliament; and it was not always ſo: for in the time of Ethelſtan, the eſtimates of lives were agreed in parliament, and that of a king valued at thirty thouſand thrymſae †. And, if that law had not been altered by the parliament, it muſt have been in force at this day. It had been in vain for a king to ſay he would have it otherwiſe; for he is not created to make laws, but to govern according to ſuch as are made, and ſworn to aſſent to "ſuch as ſhall be propoſed ‡." He who thinks the crown not worth accepting on theſe conditions may refuſe it. The words "le roi le veut" are only a pattern of the French faſhions, upon which ſome kings have laid great ſtreſs, and would no doubt have been glad to introduce "car tel eſt notre plaiſir;" but that may prove a difficult matter. Nay, in France itſelf, where that ſtyle, and all the ranting expreſſions that pleaſe the vaineſt of men are in mode, no edict has the

* Laws do not take their conſtraining force from the quality of ſuch as deviſe them, but from that power which doth give them the ſtrength of laws. Hooker's Eccl. Pol. b. 1, § 10

§ Speech in the ſtar-chamber, 1616. Vide ſuprà, p. 343

† Regii capitis aeſtimatio, jure Anglorum communi, 30 thrimſarum millibus conſtat: quorum millia quindecem capitis aeſtimationis, reliqua regni nomine debentur: haec ad gentem, illa ad cognatos pertinent. Vide Leges Aethelſtani, Edit. Lambardi, p. 55.—— Thrimſa vel thrymſa eſt trium ſolidorum nummus, à τρῖς, quod ternos ſignificat. Lamb. Gloſs. Spelm. Gloſs. in voce Thrimſa.

‡ Quas vulgus elegerit. Vide ſuprà, p. 354

power

power of a law, till it be regiſtred in parliament. This is not a mere ceremony, as ſome pretend, but all that is eſſential to a law. Nothing has been more common, than for thoſe parliaments to refuſe edicts ſent to them by the king. When John Chaſtel had, at the inſtigation of the Jeſuits, ſtabbed Henry the fourth in the mouth, and that order had deſigned or executed many other execrable crimes, they were baniſhed out of the kingdom by an arrêt of the parliament of Paris. Some other parliaments regiſtred the ſame; but thoſe of Toulouſe and Bourdeaux abſolutely refuſed; and, notwithſtanding all that the king could do, the Jeſuits continued at Tournon, and many other places within their precincts, till the arrêt was revoked. Theſe proceedings are ſo diſpleaſing to the court, that the moſt violent ways have been often uſed to aboliſh them. About the year 1656, Seguier then chancellor of France was ſent with a great number of ſoldiers to oblige the parliament of Paris to paſs ſome edicts upon which they had heſitated: but he was ſo far from accompliſhing his deſign, that the people roſe againſt him, and he thought himſelf happy, that he eſcaped with his life. If the parliaments do not in all parts of the kingdom continue in the liberty of approving or rejecting all edicts, the law is not altered, but oppreſſed by the violence of the ſword: and the prince of Condé, who was principally employed to do that work, may, as I ſuppoſe, have had leiſure to reflect upon thoſe actions, and cannot but find reaſon to conclude, that his excellent valour and conduct was uſed in a moſt noble exploit, equally beneficial to his country and himſelf. However, thoſe who are ſkilled in the laws of that nation do ſtill affirm, that all public acts, which are not duly examined and regiſtred, are void in themſelves, and can be of no force longer than the miſerable people lies under the violence of oppreſſion; which is all that could reaſonably be ſaid, if a pirate had the ſame power over them. But whether the French have willingly offered their ears to be bored, or have been ſubdued by force, it concerns us not. Our liberties depend not upon their will, virtue, or fortune: how wretched and ſhameful ſoever their ſlavery may be, the evil is only to themſelves. We are to conſider no human laws but our own; and if we have the ſpirit of our anceſtors we ſhall maintain them, and die as free as they left us. "Le roi le veut," though written in great letters, or pronounced in the moſt tragical manner, can ſignify no more than that the king in performance of his oath does aſſent to ſuch laws as the lords and commons have agreed. Without prejudice to themſelves, and their liberties, a people may ſuffer the king to adviſe with his council upon what they propoſe. Two eyes ſee more than one, and human judgment is ſubject to errors. Though the parliament conſiſt of the moſt eminent men of the nation, yet, when they intend good, they may be miſtaken. They may ſafely put a check upon themſelves, that they may farther conſider the moſt important matters, and correct the errors that may have been committed, if the king's council do diſcover them: but he can ſpeak only by the advice of his council; and every man of them is with his head to anſwer for the advices he gives. If the SECT. 45

CHAP. III parliament has not been ſatisfied with the reaſons given againſt any law that they offered, it has frequently paſſed; and if they have been ſatisfied, it was not the king, but they, that laid it aſide. He that is of another opinion, may try whether "le roi le veut" can give the force of a law to any thing conceived by the king, his council, or any other than the parliament. But if no wiſe man will affirm that he can do it, or deny that by his oath he is obliged to aſſent to thoſe that come from them, he can neither have the legiſlative power in himſelf, nor any other part in it than what is neceſſarily to be performed by him, as the law preſcribes.

I know not what our author means by ſaying, "le roi le veut is the "interpretive phraſe * pronounced at the paſſing of every act of parliament:" for, if there be difficulty in any of them, thoſe words do no way remove it. But the following part of the paragraph better deſerves to be obſerved. "It was, ſays he, the antient cuſtom for a long time, "till the days of Henry the fifth, for the kings, when any bill was "brought to them, that had paſſed both houſes, to take and pick out "what they liked not; and ſo much as they choſe was enacted as a law: "but the cuſtom of the later kings hath been ſo gracious, as to allow "always of the entire bill, as it paſſed both houſes." He judiciouſly obſerves, when our kings began to be gracious, and we to be free. That king (excepting the perſecution for religion, in his time, which is rather to be imputed to the ignorance of that age, than to any evil in his own nature) governed well; and as all princes, who have been virtuous and brave, have always deſired to preſerve their ſubjects liberty, which they knew to be the mother and nurſe of their valour, fitting them for great and generous enterprizes, his care was to pleaſe them, and to raiſe their ſpirits. But, about the ſame time, thoſe deteſtable arts, by which the mixed monarchies in this part of the world have been every where terribly ſhaken, and in many places totally overthrown, began to be practiſed. Charles the ſeventh of France, under pretence of carrying on a war againſt him and his ſon, took upon him to raiſe money, by his own authority; and we know how well that method has been purſued. The miſchievous ſagacity of his ſon Lewis the eleventh, which is now called king-craft, was wholly exerted in the ſubverſion of the laws of France, and the nobility that ſupported them. His ſucceſſors, except only Lewis the twelfth, followed his example; and in other nations, Ferdinand of Arragon, James the third of Scotland, and Henry the ſeventh of England, were thought to imitate him the moſt. Though we have little reaſon to commend all the princes that preceded Henry the fifth, yet I am inclined to date the general impairing of our government from the death of that king, and his valiant brothers. His weak ſon became a prey to a furious Frenchwoman, who brought the maxims of her own country into ours, and advanced the worſt of villains to govern according to them. Theſe meaſures were purſued by Edward the fourth, whoſe wants contracted by

* The word "interpretive" is a miſtake in the firſt edition of Filmer's Patriarcha, for "imperative".

prodigality and debauchery, were to be ſupplied by fraud and rapine. SECT. 45
The ambition, cruelty, and perfidiouſneſs of Richard the third; the covetouſneſs, and malicious ſubtilty of Henry the ſeventh; the violent luſt, rage, and pride of Henry the eighth; and the bigotted fury of queen Mary, inſtigated by the craft and malice of Spain, perſuaded me to believe, that the Engliſh liberty did not receive birth or growth from the favour and goodneſs of their gracious princes. But, it ſeems, all this is miſtaken: Henry the ſixth was wiſe, valiant, and no way guided by his wife; Edward the fourth, continent, ſober, and contented with what the nation gave him; Richard the third, mild, gentle, and faithful; Henry the ſeventh, ſincere, and ſatisfied with his own; Henry the eighth, humble, temperate, and juſt; and queen Mary, a friend to our country and religion. No leſs praiſes ſure can be due to thoſe who were ſo gracious as to recede from their own right of picking what they pleaſed out of our laws, and to leave them entirely to us, as they paſſed both houſes. We are beholden to our author for the diſcovery of theſe myſteries. But though he ſeems to have taken an oath, like that of the gypſies when they enter into that virtuous ſociety, never to ſpeak one word of truth, he is not ſo ſubtle in concealing his lyes. All kings were truſted with the publication of the laws; but all kings did not falſify them. Such as were not wicked and vicious, or ſo weak as to be made ſubſervient to the malice of their miniſters and flatterers, could never be drawn into the guilt of ſo infamous a cheat, directly contrary to the oath of their coronation. They ſwear to paſs ſuch "laws as the people chooſe;" but, if we will believe our author, they might have picked out whatever they pleaſed, and falſly impoſed upon the nation, as a law made by the lords and commons, that which they had modelled according to their own will, and made to be different from, or contrary to the intention of the parliament. The king's part in this fraud, of which he boaſts, was little more than might have been done by the ſpeaker, or his clerks. They might have falſified an act as well as the king, though they could not ſo well preſerve themſelves from puniſhment. It is no wonder, if, for a while, no ſtop was put to ſuch an abominable cuſtom. It was hard to think a king would be guilty of a fraud, that were infamous in a ſlave; but that proved to be a ſmall ſecurity, when the worſt of ſlaves came to govern them. Nevertheleſs, it is probable they proceeded cautiouſly: the firſt alterations were, perhaps, innocent, or, it may be, for the beſt. But, when they had once found out the way, they ſtuck at nothing that ſeemed for their purpoſe. This was like the plague of leproſy, that could not be cured; the houſe infected was to be demoliſhed; the poiſonous plant muſt be torn up by the root; the truſt that had been broken was to be aboliſhed; they who had perverted or fruſtrated the law were no longer to be ſuffered to make the leaſt alteration; and that brave prince readily joined with his people, to extinguiſh the miſchievous abuſe that had been introduced by ſome of his worthleſs predeceſſors. The worſt and baſeſt of them had continual diſputes with their parliaments, and thought, that whatever they could

CHAP. III detract from the liberty of the nation would ſerve to advance their prerogative. They delighted in frauds, and would have no other miniſters, but ſuch as would be the inſtruments of them. Since their word could not be made to paſs for a law, they endeavoured to impoſe their own, or their ſervants inventions, as acts of parliaments, upon the deluded people, and to make the beſt of them ſubſervient to their corrupt ends, and pernicious counſels. This, if it had continued, might have overthrown all our rights, and deprived us of all that men can call good in the world. But the providence of God furniſhed our anceſtors with an opportunity of providing againſt ſo great, ſo univerſal a miſchief. They had a wiſe and valiant prince, who ſcorned to encroach upon the liberties of his ſubjects, and abhorred the deteſtable arts, by which they had been impaired. He eſteemed their courage, ſtrength, and love, to be his greateſt advantage, riches, and glory. He aimed at the conqueſt of France, which was only to be effected by the bravery of a free and well ſatisfied people. Slaves will always be cowards, and enemies to their maſter. By bringing his ſubjects into that condition, he muſt infallibly have ruined his own deſigns, and made them unfit to fight, either for him or themſelves. He deſired, not only that his people ſhould be free, during his time, but that his ſucceſſors ſhould not be able, by oblique and fraudulent ways, to enſlave them. If it be a reproach to us, that women have reigned over us, it is much more to the princes that ſucceeded our Henry, that none of them did ſo much imitate him in his government, as queen Elizabeth. She did not go about to mangle acts of parliament, and to pick out what might ſerve her turn; but frequently paſſed forty or fifty in a ſeſſion, without reading one of them. She knew that ſhe did not reign for herſelf, but for her people; that what was good for them was either good for her, or that her good ought not to come into competition with that of the whole nation; and that ſhe was, by oath, obliged to paſs ſuch laws, as were preſented to her on their behalf. This not only ſhews, that there is no ſuch thing as a legiſlative power placed in kings by the laws of God and nature, but that nations have it in themſelves. It was not by law, nor by right, but by uſurpation, fraud, and perjury, that ſome kings took upon them to pick what they pleaſed out of the public acts. Henry the fifth did not grant us the right of making our own laws; but, with his approbation, we aboliſhed a deteſtable abuſe, that might have proved fatal to us. And, if we examine our hiſtory, we ſhall find, that every good and generous prince has ſought to eſtabliſh our liberties, as much as the moſt baſe and wicked to infringe them.

INDEX TO THE DISCOURSES

Aaron, *vide* Moſes.
Abdication, Camillus the dictator obliged to abdicate his magiſtracy 270
Abraham, and the patriarchs not kings 16. 19
Could never exerciſe a regal power 19
Lived with Lot in perfect freedom 77
Abrogation, where a perſon abrogates the magiſtracy 189. 191
God declared Saul's kingdom to be entirely abrogated 280
A whole people, or part of them, may at their own pleaſure abrogate a kingdom 281
What is ſaid to be ſo 345
None can abrogate the law of God 282, 283
Abſalom, his revolt 283
Abſolute power and monarchy, out in its firſt beginning 18. 45
Of France and Turky 45. 74. 128. 167. 169. 387
Burdenſome and dangerous 71
Who fit ſubjects for it 99. 156. 164, 165
Scarce ever conquered a free people 110. 117. 169. 175
Who advocates for it 111. 137
Nothing more mutable, or unſtable 112. 118
Cannot be reſtrained by law 115. 159, 160. 164
Where it ſhould be of more ſtrength than the limited 116
The ſad effects of it 129. 199. 223, 224, 225. 387, 388. 494, 495
Rome decayed, and periſhed under it 131
The root and foundation of it 141. 157, 158
Not eſtabliſhed among the Greeks by law 147
Encourages venality and corruption 156, 157. 217
Advances the worſt of men 159, 160, 161. 196
In what ſenſe moſt contrary to nature 163
By whom only to be endured 165. 387
The people under it always miſerable 167. 182 184. 216
All things managed by one, or a very few men 168
Seems totally to be exempted from miſtakes, and why 186
Almoſt all troubles ariſing in them, proceed from malice 186
Sedition moſt frequently in, and natural to them 195. 198. 208, 209, 210
By what means this arbitrary power is ſet up 195, 196. 215
Few or none long ſubſiſt under it 205
Where it cannot be introduced 218
Integrity not to be found therein 221
What care ſuch monarchs have for their people 231, 232
Their chief labour is to be above the law 248
Abſolute power, no ſociety can be eſtabliſhed, or ſubſiſt without it ſomewhere 501
Never well placed in men and their ſucceſſors, if not obliged to obey the laws that ſhould be made 502
Abuſes in government, when never to be reformed 239
Account, to whom the people of Rome were to give theirs 36
Accuſers, *vide* Falſe witneſſes.
Acquiſition, what right can be pretended from it 446
Acts of parliament, till the days of Henry V. for the moſt part were penned by the king's officers, 417. 506 *vide* Statutes
Adam, his ſin, what 3
His kingdom 16
Had only an oeconomical, not a political power 75
Adoption, wherein the folly of it 50, 51, 52, 53
What may be called ſo improperly 51, 52
Jacob adopted Ephraim and Manaſſeh 73
Advancements, ought ever to be for the ſake of the public, not of the man 65
Have oftentimes made people worſe 338, 339
Adverſary, who a vicious prince reckons ſuch 232
Adultery, became as common in Sparta, as in any part of the world, and why 272
Cannot be diſpenſed with, even by the pope himſelf 439
Affections of the people, the prince's moſt important treaſure 262
Ageſilaus, his great atchievements 117. 147
His denial of Artaxerxes to be greater than he 298
Xenophon's great character of him, and for what 320
Agreements, the treachery of violating them aggravated by perjury, 192. *vide* Contracts.
Made by king John of France, when priſoner at London, and Francis under the ſame circumſtances at Madrid, reputed null 254
A good man performs them though he is a loſer by the bargain 360
The neceſſity of ſtanding to them from religion, and the law of nature 378
Between princes confirmed afterwards by parliaments, &c. 487
Agrippa (Menenius) appeaſed one of the moſt violent ſeditions at Rome, and how 185
Ahab's growing ſick on Naboth's refuſing him his vineyard 299
When his houſe was to be cut off 480
Alexander of Macedon, thought to be meant by Ariſtotle for the man framed by nature for a king 62. 65. 114
His extravagant frolicks 114
His fortune overthrew his virtue 114. 117. 478
His reign full of conſpiracies 198
After his death the kingdom fell all to pieces 143
It is thought he died by poiſon 143. 198
Alexander of Epirus, in valour thought equal, in power little inferior to him 182
Alfred, Magna Charta grounded upon his laws 10
Acknowledged he found and left this kingdom perfectly free 452
Alienation, *vide* Dominion.
Allegiance, is ſuch an obedience as the law requires 426. 459.

Cannot relate to a whole nation 459
Alliances 83. 127. 228
All things in their beginning are weak 178
Change by length of time 184
Altar, the horns of it no protection to wilful murderers 320
Ambaſſadors, from whence kings have their right of ſending them 437. 487
Charles Guſtavus, his excellent ſaying to one 443
From the Privernates, their brave and reſolute anſwer to Plautius their conſul, when they were ſuing for a peace 458
From the eſtates of Scotland to queen Elizabeth 480
Ambition, honeſt and wiſe men expoſe the folly of it 52. 71
Can never give a right to any over the liberties of a whole nation 83
Tends to public ruin 146
Is the overthrow of ſtates and empires 159
Man naturally prone to it 151
What it prompts to 201
Has produced more miſchiefs than any other deſires and paſſions 204. 210, 211. 214
St. Ambroſe, ſeems to have no knowledge of the Gothic polity 310
Anceſtors, what we ought to do, if we will be juſt to them 464. 507, 508
Never thought their poſterity would ſo degenerate, as to ſell themſelves and their country 503
By exerting their vigor we ſhall maintain our laws 505
Angli or Saxons; Tacitus's deſcription of them 422
Antiochus, his vain boaſt to deſtroy Greece and Italy 118
How ſoon he loſt all he poſſeſt in Greece, &c. 169
Apoſtles, what their work was in relation to the civil ſtate 195
Appanages, in France to the kings brothers, produced very bad effects 143, 144
Or to their ſons, but they remain ſtill ſubject to the crown 255. 372, 373
Appeals, the right of them to the people 125, 126. 138. 153. 192, 193. 270. 341. 361
None from parliamentary decrees 190
To whom they were made when there was in Rome no ſuperior magiſtrate in being 340
No pardoning a man condemned upon one 489
Inſtances of it 489, 490
Arcana imperii, how to be meddled with 6, 7, 8
Arians, as cruel as the Pagans 115
Ariſtocracy, what 22. 350
For whom beſt 62
How ſet up 67
Was the Jewiſh government 100. 103. 258
Who patrons for it 166
The Lacedemonians for it 259
Whether it ſeems eſtabliſhed by nature 397
Ariſtotle, ſlighted by Filmer 11
Commendation of him 59. 107
His notion of civil ſocieties 60, 61. 65, 66. 71. 99. 249
Who he thought was framed by nature for a king 62. 65. 114
Wherein he highly applauds monarchy 108, 109
Thinks the firſt monarchs were but little reſtrained, becauſe they were choſen for their virtue 250
His diſtinction between a king and a tyrant 300. 397
Who, he ſays, are governed by God, rather than by men 346, 347
Proves that no man is entruſted with an abſolute power 397
Armies, of the Eaſt and Weſt, ſet up emperors for themſelves 121
Out of what ſort of men they are to be formed 181
vide Mercenary and ſoldiery.
Arminius, killed for aiming at a crown, which blemiſhed all his other virtues 332
Arms, thoſe juſt and pious that are neceſſary, and thoſe neceſſary, when there was no hope of ſafety by any other way 481
Artaxerxes, and his army overthrown by the valour of 10,000 Grecians 116
Artificer, what ſort of one he is to whom implicit faith is due 7
Aſſemblies, that took their authority from the law of nature, conſidered 81, 82
General of the people 103, 104, 105
The uſe of them 115. 423
Of the eſtates in France, brought now to nothing 144
Settled the crown on Pepin 208
What they ought to ſee performed 256
Had the power always of the whole people in them 312
In them none judge for themſelves 340, 341
The greateſt truſt that can be was ever repoſed in them 419
Inconſiſtent with the abſolute ſovereignty of kings 426
Refuſed giving ſupplies to their kings in Spain and France, without orders from their principals 498
Aſſyrians, *vide* Eaſtern nations.
That empire wholly aboliſhed on the death of Belſhazzar 113
Their valour irreſiſtible under Nebuchadnezzar 179
Little more known of them than from Scripture 200
Athaliah, more ready to cry out treaſon than David 187. Deſtroyed the king's race, and by whom herſelf was killed 198. *vide* Queen.
Athens, its government not ſo much approved as that of Sparta 148
Baniſhed ſome worthy men, and put others to death 148
The cruelty of the thirty tyrants there 149
As much inclined to war as Rome 172
The thirty tyrants deſtroyed by Thraſybulus 189
Their oſtraciſm proceeded ſolely from fear 246, 247
Was not without laws when ſhe had kings 337
Athletic habit, what 127. 137
Attila, called the ſcourge of God, and gloried in the name 351
Avarice, the evil effects of it 52
Auguſtus, Rome's longeſt peace under his reign 130. 198
What happened in it 133
Was worſe in the beginning than latter end of his reign 133

Had thirty mercenary legions to execute his commands 400
Whether he truly deſerved to be called the head of the Romans 474
The name of Auguſtus is a title belonging to the German emperor at this day 448
Auſtria, Spain after many revolutions came to this houſe 184
Princes of this houſe pretend to know their original 365
The German empire came to Rodolphus of this name about 300 years ago 366
What claim this houſe has to the crown of France 373. 438
Authors of great revolutions, their aims 157
Axioms in law, are evident to common ſenſe, and nothing to be taken for one that is not ſo 409

Babel, *vide* Nations.
Babylonian kings, what right is pretended to be in them 31
Monarchy ruled by force, the ſtronger turning out the weaker 112
How its pride fell 120
Little more known of its monarchy than from Scripture 200
Babylon and Suſa trembled at the motion of the Grecian arms 223
There were a people there before Nimrod was king 401
Balance of power, where and how it is broken 261, 262. 464
Nations have ſuffered extremely through want of this prudence in rightly balancing, &c. 478
In what manner power ſhould be balanced for the advantage and ſervice of the ſtate 491
Baniſhment, not above 5 or 6 men ſuffered unjuſtly in the Roman government, in the ſpace of about 300 years 125. 127. 151
The temporary of the Athenians never accounted as a puniſhment 148
Camillus recalled from it, and afterwards honoured 149
Barbarorum regna 249
Baron, the extent of the name 428, 429. 432
Baronagium, what 81. 428, 429
Bartholomew de las Caſas (a Spaniſh biſhop) his admirable ſaying concerning the office of a king 39
Baſſompierre, his ſaying about Rochelle 237
Baſtards, thoſe children can inherit nothing 91
Declared with relation to crowns 94. 377
Advanced before legitimate brethren 140, 141. 369, 370, 371. 444
In ſome places wholly excluded 203
Beggars of a king to Samuel, ſuch as would not be denied 106
Parliaments no beggars 356, 357
Belial, who his ſons 108
Bellarmine's tenets 4, 5. 13, 14, 15. 21
Benjamites, how they proceeded in preparing for their defence 105
Beſt men, content with a due liberty under the protection of a juſt law 164. 379, 380
Have ever been againſt abſolute monarchy 165
Deſpiſed, hated, and marked out for deſtruction 236. 381
Have their affections and paſſions, and are ſubject to be miſled by them 249. 393
Were ſo eſteemed who deſtroyed tyranny 301
Whom they had need to fear 517
Can never wholly diveſt themſelves of paſſions and affections 405
Birthright, gives a right to ſovereign dominion 89
Some have been accuſed of ſuppoſititious births 377
Biſhops, the king's power in making them 229
What words of ſervitude are ſaid to be introduced by them among us 331
Blake, the terror his fleet ſtruck every where 240
Blood; by God's law, that man's is to be ſhed, who ſheds anothers 314
The neareſt in blood ſet aſide, when it was thought more convenient to advance others 367, 368
Boccalini, the princes of Europe angry with him for his definition of a tyrant, *vide* 1 Cent. 76 Advertiſement 249
Bought and ſold, how places came to be ſo 219. 222
Senates and people cannot ſo eaſily be 221, 222
Bourbon, Henry of that name, not admitted to the crown till he abjured his religion, and promiſed to rule by law 254
Bracton, his words, omnes ſub eo, et ipſe ſub nullo, &c. how to be underſtood 313
What he calls eſſe ſub lege 339. 344
What, he ſays, the king is obliged to do by his oath 414
His ſaying about evil, or unſkilful judges 414
Brethren, all ſo by nature 25
Nature abhors a difference in ſpecie between them 73, 74
Where a fraternal equality continued 77
Are equals 87
What advanced ſome above the reſt 101, 102
The governed ſo called, by their magiſtrates 474
Bribery, natural to courts 155, 156. 216, 217
Seeks the largeſt bidder 179
Cannot corrupt, where virtue is preferred 218
The way to prevent it 220, 221
A noble perſon turned out of a conſiderable office, as a ſcandal to the court, for being an enemy to this vice 221
Parliaments not ſo eaſily to be prevailed upon 502
Britain, ſhamefully loſt 131
Kings impoſed upon the Britons by the Romans, and to what end 276. 415
Severe aſſertors of their liberties 402, 403. 421
Though they choſe commanders in their wars, yet they kept the government in themſelves 421
Ever had their great councils to determine their moſt important affairs 423
Brutus, found it dangerous to be thought wiſe, and why 193. 205
Eſtabliſhed liberty and the conſulate together 386
Buchanan, joined to Doleman 4
His character of king James the third 252
Concerning the violation of the laws of Scotland 343
Burgundy, continued in Hugh Capet's eldeſt ſon Robert, and his deſcendents for ten generations 373

Caeſar, of giving him his due 9. 306
Julius, ſubverted all order by invading the ſupreme magiſtracy by force 121. 143. 307. 472

Caesar, Julius, worse than Tarquin 145
By what means he set up his tyranny 155. 298
Scarce any prince had so many good qualities, till they were extinguished by ambition 157
Designed to make himself a tyrant 161
Thought all things lawful when the consulate was denied him 202
When the power of the Romans was expressed by this name 306
Had a diadem offered him by Mark Anthony 331
How observant he was of his word, when taken by pirates 359
The state of the Roman empire after his usurpation 388
Augustus, his power not given, but usurped 400
Julius, what account he gives of our affairs here 402. 421
When, if ever, fear entered into his heart 421
In despair would have killed himself 472
Caesars, never called kings till the sixth age of christianity 447
Cain, had no dominion over his brethren after Adam's death 69, 70
From whence his fear (that every man would slay him) proceeded 274
Caligula, his wish that the people had but one neck 11. 58. 193. 227. 475
A monster of mankind 30. 342
His making love to the moon 49
His expedition, when he said he had subdued the sea 130
Valerius Asiaticus appeased the guards, by saying, he wished he had been the man who had killed him 195. 342
Murdered by his own guards 199
Affected the title of being called God, which Claudius Caesar calls insolentem Caii insaniam 246. *vide* 331
Whose minister he might be said to be 327
Said of him, that no man ever knew a better servant, nor a worse master 336
Wherein he placed his sovereign majesty 389
Calvin, his opinion of the government instituted by God 100. 104
Camden, his credit forfeited by a great number of untruths 427
Campus Martius, was the land that belonged to the kings of Rome (not above ten acres) afterwards consecrated to Mars 299
Cardinals, the respect paid them, who have the power of choosing popes 74
Carthage, how she grew to that excess of power that only Rome was able to overthrow 136. 174
One of the most potent cities in the world 174
Castile, the lords thereof had no other title for many ages than that of count, which was afterwards changed to that of king, without any addition to the power 448
Concerning the states thereof erring 470
Catiline, his temper 137
One of the lewdest men in the world 155
"Cesset processus," said to be annexed to the person of the king 489
Ceylon, an island in the East-Indies, where the king knows no law but his own will 493
Change, of government, no proof of irregularity or prejudice to it, by those that have right 123. 145
Nothing found more orderly 139
A mortal one in root and principle 143
In government unavoidable 144
What changes deserve praise 145
Where the wisdom of it is shewn 145
Where they are requisite sometimes 406
What are for the worse 463
Charter of liberty, not from men, but from God 450
Parliaments interposed their authority in these matters 467
Chatham, the city of London's dread at the Dutch fleet's burning our ships there 178
Cheat of Mario Chigi, brother of Alexander VII. upon the sale of corn 226
Child or children, a wise one, Eccl. 4, 13 28. 50. 97. 242. 311
Their duty is perpetual 54. 69. 271, 272. 277
Of God and of the devil 56. 58
If children then heirs 72
Wo to thee, O land, when thy king is a child! 74. 96
On what account children are admitted to rule 97
What understood by the word child 97
They do not always prove like their parents 221. 344
Children, the danger of having them to be kings 242
The law gives them relief against the severities of their parents 275
Were punished with death, and for what 275
Christianity, has been split into variety of opinions, ever since it was preached 175
The first professors were of the meanest of the people 326
St Paul's work was to preserve the professors of it from errors concerning the state 326
Sufficiently proved to be antient, if proved to be good and true 404
Cities, consist of equals 60, 61. 65
What makes them free 450
Cives, *vide* Incolae
Civil war, *vide* War
Clergy, the veneration our ancestors had for them 426
Collectors, their extortions 224
Commanders, after the captivity, who thought most fit 27
Of armies, who best to be made so 61
The best among the Greeks and Romans in their times, would not know how to manage an army now 463
Where they have him put to death for misbehaviour &c. 468
Commands of a master, how far the servant is bound to obey them, &c. 383, 384
Commission, from God, what 56
They who hereby grant authority, do always retain more than they give 466. 500
Comitia centuriata, what 337
Commons, whether they had a part in the government 424, 425
Always had a place in the councils that managed it 426
Many of them in antiquity and eminency, little inferior to the chief of the titular nobility 427. 430
The nation's strength and virtue in them 430
How all things have been brought into the king's and their hands 464

Yet never can be united to the court 464
Have refuſed to give their opinions in many caſes, till they had conſulted with thoſe that ſent them 468
Commonwealths, for what end inſtituted 1
All the regular kingdoms in the world are ſo 21. 60
Of Italy, not without valour and virtue 134
How they ſeek peace and war 172
Whether better to conſtitute one for war or trade 174
Another ſort compoſed of many cities aſſociated together, and living aequo jure 175
Seldom advance women, children, or ſuch like, to the ſupreme power 214
In them all men fight for themſelves 215
When the laws are aboliſhed, the name alſo ceaſes ibid.
Leſs ſlaughter in theſe, than in abſolute kingdoms 223
Of Greece and Italy, why called nurſeries of virtue 226
Juſtice very well adminiſtered in them 316
How they may be ſaved from ruin 465
Competitors, ſovereigns do impatiently bear them 19
Where their own ſwords have decided their diſputes 187. 205
Conteſts between them relating to the crown, are often very bloody 206. 208, 209, 210, 211, 212, 213. 215
Compulſion; he that will ſuffer himſelf to be compelled, knows not how to die 329
Conqueſt, what is ſo called 23. 36
William I. had the name of conqueror odiouſly given to him 85
The extent thereof not the only thing to be conſidered 130, 131
Some commonwealths hereby deſigned to enlarge their territories 173
Some conquerors never deſerved the name of uſurpers 315
The king cannot diſpoſe of a conquered country, becauſe it is annexed to the office 437
It is the people that conquer, not any one man by his own ſtrength 446
Conſcience, how it ought to be regulated 328
Conſent general, to reſign part of their liberty for the good of all, is the voice of nature 11. 23. 162
Firſt conferred power 19. 21. 36. 77, 78. 95
Government ariſes from it 37, 38. 77. 85. 265, 266
The right of magiſtrates eſſentially depends upon it 85, 86. 249. 366. 395. 401
None to tyrannies 86
No complete lawful power without it 88. 95. 166. 189
Of the three eſtates in many places required, to paſs a law 259
Whatever proceeds not from it, muſt be de facto only 446
Conſtantine the great, with what blood he was polluted 205, 261
His power kept up hereditary, but with extreme confuſion and diſorder 267
Conſtitutions of every government to whom referred 37
Human, ſubject to corruption, and therefore to be reduced to their firſt principles 124
Where new ones are neceſſarily required 144
That the beſt, which is attended with the leaſt inconveniences 151
Who endeavours the ſubverſion of them 164. 464
Of commonwealths various 172. 444
Of the northern nations that invaded the Roman empire 174
The temper of that of the United provinces 177
Good ones remain, though the authors of them periſh 180
The ſalutary ones made by men, God approves and ratifies 319
Of a ſtate aims at perpetuity 336
Are made for and by the people 386
What the imperfections of all human conſtitutions 404
Our antient, has been wholly inverted 430
What are moſt to be commended 459. 478
Of no value, if there be not a power to ſupport them 461, 462
Conſuls, made of plebeians, how ſeldom choſen, and with what prudence 124
Repreſented kings, and were veſted with equal power 138. 141. 270. 333. 453
Were created after the expulſion of Tarquin 145 261
Conſuls, ſtrangers raiſed to that honour 173
Though ſupreme in power, yet ſubject to the people 190. 269. 297
Marius continued five years in the office 261
Only for a year 269
Title of dread ſovereign might juſtly have been given to them 453
If they grew inſolent, how they might be reduced 462
Contracts, how framed between nations and their kings 278 *vide* 289, 290. 459
Vide judges, nations, original.
Entered into by princes before their inveſtiture 325
The breaking them overthrows all ſocieties 358
In writing, ſaid to be invented only to bind villains, and why 359
All are mutual, and whoever fails of his part diſcharges the other 362
Contrariorum contraria eſt ratio 327
Controverſies, with other nations, the deciſion of them left to judges choſen by mutual agreement 483
Coriolanus duly condemned by the Romans 149
Coronation oath 87, 88. 95, 96
Norman kings obliged to take it 312
How far our kings are obliged to obſerve it 354, 355. 358, 359. 362, 363. 412. 453
Corporations, or bodies politic, what places were thought fit by the king and council to be made ſo 467
Corruption, natural to courts, inſtances given 155, &c. 161, 217
Of miniſters in foreign courts 167
The effect of that which proceeds from the government in particular inſtances 183. 484
Of a people tends to tyranny 196
Makes princes titles good, and how 200
Where it certainly moſt abounds 216, 217. 220
Muſt always be oppoſed by free governments, and why 217, 218
The baſeſt, but moſt lucrative traffic 219, 220
In the head, muſt neceſſarily diffuſe itſelf into moſt of the members of the commonwealth 220. 239

A juſt prince that will hear his people's complaints himſelf prevents it 221
Rooted in the very principle of abſolute monarchy, which cannot ſubſiſt without it 222
Mankind naturally propenſe to it 250
Of judgment proceeds from private paſſions 298
Of members of parliament 502
Counſellors, made choice of according to the temper of the prince 8. 232, 233. 349, 350
Signify little to an abſolute monarch 168. 184
In the multitude of them generally is ſafety 469
Whether thoſe of the king are expoſed to puniſhments, and for what 489. 506
Council of ſeventy choſen men 103
God's counſels are impenetrable 120
A wiſe and good one cannot always ſupply the defects, or correct the vices of a young or ill-diſpoſed prince 349
Where it is of no uſe unleſs princes are obliged to follow it 350
Of Toledo, what it made the prince to ſwear before he was placed in the royal ſeat 374
Of what perſons it antiently conſiſted 427, 428. 467
General, how expreſſed antiently by authors 433
When the boldeſt are moſt ſafe 479
The king is obliged to act, cum magnatum et ſapientum conſilio 489
He can ſpeak only by their advice, and every man of them is with his head to anſwer for the advice he gives 505
Council-table, the proceedings and juriſdiction of it regulated by 16 Car. 1. cap. 10. 418
Courtiers, what things are inſeparable from their lives 219
Their phraſe is, to make as much profit of their places as they can 220
A wiſe prince's ſaying to ſome about him of ſuch 221
Wherein their art conſiſts 229, 492
The modern ones by their names and titles, what they are apt to put us in mind of 426
When they ſpeak moſt truth 453
Of Philip III. and IV. of Spain, their ſottiſhneſs 466
Cowards, the cruelleſt of men 246
Crown, how the Engliſh became hereditary 94
Changed from one family to another by the eſtates of the realm 141. 271. 370. 372. 418. 419
Comprehends all that can be grateful to the moſt violent and vicious 201
Hereditary or elective, it has its defects 222
The Spartan tranſported into nine ſeveral families 251
Of France, is from the people 255. 371, 372
Where none would accept it, but ſuch as did not deſerve it 261
Arminius ſlain for aiming at one 332
Of England, upon what conditions accepted 361
Five different manners of diſpoſing crowns eſteemed hereditary 363, 364
Of Spain not fixed in a line, but diſpoſed of as the nobility and people thought fit 369
Many and bloody conteſts for one 395. 455, 456
The demeſnes cannot be alienated 437
The parliament's power of giving and taking it away 456
Some have feared the luſtre of it 478
He that wears it cannot determine the affairs which the law refers to the king 486. 488
Curio, by corruption made an inſtrument of miſchief, who had been an eminent ſupport of the laws 157
Cuſtom, the authority of it, as well as of law, conſiſts only in its rectitude 403
The various ones uſed in elections 467
Had its beginning and continuance from the univerſal conſent of the nation 491
The reaſon why we pay cuſtoms 504

David, the moſt reverend king, had his poſterity deprived, and his kingdom at laſt came to the Aſmonean race 27
Choſen and anointed king by the tribe of Judah 95. 282
Slew the ſons of Rimmon, and why 95
Not without his infirmities and puniſhments 113
Who were his followers, notwithſtanding the juſtice of his cauſe 197. 282
His affection towards his people 275
His reſiſting of Saul, without aſſuming the power of a king 280, 281
How his heart ſmote him when he had cut off Saul's ſkirt 281
His war with Saul, how grounded 282
There were many rebellions againſt him 284
How he feared men more than God 295
Why commanded Solomon not to ſuffer Joab to go to the grave in peace 319
Wiſe as an angel of God 469
Death, of no eminent Roman, except one, for a long time 125
Citizens to be condemned in public by the Roman law 153
Of Barnevelt, and de Witt 177
Often the reward of ſuch ſervices as cannot be ſufficiently valued 205
Of the neareſt relations, regnandi cauſâ 205
The bitterneſs of it, how aſſuaged 262
Very few ſuffered in Sparta for above 800 years 320
Decemviri, only for a year 142
For two years 340
To regulate the law 145. 337
Patricians favoured them 186
Proceeded againſt as private men, when they continued beyond their time 189
Uſed with great gentleneſs 215
The Romans eaſily beaten under them 239
The power given to them, ſine provocatione, was only in private caſes 340
Why the people deſtroyed both their power and them 340
Deciſion of the moſt difficult matters, antiently left to the prieſts in all countries 483
In England, where made by judges and juries, and where by parliaments 490, 491
Defence, all terminates in force 180, 181
Whether better for every man to ſtand in his own defence, than to enter into ſocieties 194
Of one's ſelf, natural 289. 305
Delatores, ſee Roman empire 121
Delegated perſons, their powers, to whom referred 79, 80, 81

In general aſſemblies 83
How binding the acts of ſuch are to the whole nation 85
Where the king acts by this power 489
Can have no power but what is conferred on them by their principals 496
How thoſe in the United Provinces, and in Switzerland are uſed 496
Deputies of Caſtile, refuſed in the cortes to give Charles V. the ſupplies he deſired, and why 498
Deliverers of their countries from oppreſſions, how they have been eſteemed in all ages 9
What gifts God beſtowed on them 28. 102. 111. 120
Often rewarded with inheritance 80
Their actions carry their own juſtification 195
Democracy, God ſaid to be the author of it 12. 105
Perfect, what 22
For whom beſt 62. 104. 138
How inſtituted 67
A democratical embaſſy 103
Of the Hebrew government 104
Never good but in ſmall towns 138. 147
Pure, if it be in the world, the author has nothing to ſay to it 160
Where it would prove the moſt juſt, rational and natural 163
To what miſtakes moſt liable 186
With whom in a ſtrict ſenſe it can only ſuit 258
Denmark, the laſt king thereof overthrew in one day all the laws of his country 158
The crown elective till 1660, and then made hereditary 366. 444
In ſome parts thereof the whole volumes of their laws may be read in few hours 409
The authority of their kings ſaid to have been for above 3000 years 420
Nobleman and gentleman the ſame there 429
Depoſition of princes, ſaid to be the doctrine of Rome and Geneva 4
For miſgovernment, and others placed in their rooms 81. 94. 140, 141, 242, 254. 284. 369. 403. 467
Kings, when depoſed, loſe the right of ſending ambaſſadors 487
The practice of France and other countries 93. 144. 209. 212. 244. 369. 370. 372. 419
For religion, differing from the body of the nation 94. 97. 141
If they become enemies to their people 193
For their ill lives 321. 325
Of Wamba, a Gothic king, who was made a monk after he had reigned many years well 368
Deſertion, the cauſe of it 168
Common to all abſolute monarchies 168
Of ſoldiers 237, 238, 239
Detur digniori 28. 39. 61
Dictator, from whence his power aroſe 124. 297
Caeſar made himſelf perpetual 128
Made occaſionally at the beginning 142, 143. 146
A mortal change in root and principle 143
Why Mamercus and others had this honour 149. 235
Though ſupreme, yet ſubject to the people, if they tranſgreſs the law 190. 269. 270. 453
His power but for ſix months at moſt 269. 333. 340
Camillus in his fourth dictatorſhip threatened with a fine 270
The commiſſion that was given them, what 443
How high the Romans carried the power and veneration due to them 453
None ever uſurped a power over liberty till the time of Sylla 462
Diets, vid. eſtates of the realm, and parliaments. General aſſemblies.
Difference between a lawful king and a tyrant 71. 73. 244. 301. 348
Between brethren, only in proportion 73
Between lord and ſervant in ſpecie, not in degree 73
Between men fighting for their own intereſt, and ſuch as ſerve for pay 238
Between ſenates and abſolute princes 266
Between magiſtrates to whom obedience is due, and to whom not 329, 330
Between good and bad princes, is from the obſervation or violation of the laws of their country 335
Diocleſian's ſaying, Bonus, cautus, optimus imperator venditur 217
What made him renounce the empire 217
Diogenes, his philoſophical reply to Ariſtippus, about flattery 218
Dionyſius, his tyranny deſtroyed by the Syracuſians 11
His character 30. 230
Diogenes his ſaying of him 230
Diſcipline, the excellency of the Roman 153, 154. 170
The like in all nations that have kept their liberty 170
The effects of good and bad 237, 238, 239
The excellency of the Spartan 251. 320
Diſpenſing power, our kings have it not beyond what the law gives them 396
Diſſimulation, what 243
Diſſolute perſons fitteſt ſubjects for abſolute monarchs 99. 156. 196, 197
Abhor the dominion of the law 162. 232
Doctrine; ſome, by that which is falſe, poiſon the ſprings of religion and virtue 381
Dominion, equally divided among all, is univerſal liberty 24
Of the whole world cannot belong to one man 43. 45
Nor over a nation, ever inſeparably united to one man and his family 60. 72, 73. 76. 87
Deeds by which the right of it is conferred 95
Uſurped by the ruin of the beſt part of mankind 154
Of France not to be alienated 254
Every child of a parent cannot inherit it 263
How, and by whom it was conferred 264. 449
Implies protection 451
Dominus, its ſignification 74
The Romans often called lords of the world 432
Domitian, his character 228
Tacitus calls him, an enemy to virtue 317
Duels in France, who only could refuſe challenges from any gentleman 429
Dukes of Venice, Moſcovy, &c. 191, 192
Duke, earl, and viſcount, the names of offices 437
Where theſe names are ſubjects, and where little leſs than ſovereigns 448

Duty, ariſing from a benefit received, muſt be proportionable to it 277
Of a magiſtrate, what 317
Of no man to deny any one that which is his due, much leſs to oppoſe the miniſter of God in the exerciſe of his office 327
What to be expected from, and rendered to them 333

Eaſtern nations what remarkable for 102
Force is the prevailing law with them 112
Were and are ſtill under the government of thoſe, whom all free people call tyrants 301. 386
Solomon's prudent advice to private perſons living under the government of theſe countries 310
Edward II. impriſoned and depoſed by his parliament 500
IV. his wants ſupplied by fraud and rapine 506
Election, moſt princes choſen by the people 79, 80. 88. 96
Proved from ſcripture inſtances 80, 81. 88. 95, 96. 104. 280. 283
From examples of the Saxons 84, 85. 91. 321. &c. 427
Makes a right 86, 95, 96
The various ways of electing princes 139
Frequent chooſing of magiſtrates makes nurſeries of great and able men 171. 180. 234
The prudence of election ſurpaſſes the accidents of birth 181
Of kings in France 253, 254. 371, 372
Of our kings, how 245. 346
Of Charles Guſtavus to the crown of Sweden 443
The various cuſtoms uſed in chooſing parliament-men 467, 468
Elective kingdoms 367
Elizabeth, queen, her government, not without ſome mixture of blood 213
What power made her capable of the ſucceſſion 377. 440
Her character and failings 393, 394
The Earl of Morton ſent ambaſſador to her by the eſtates of Scotland, to juſtify their proceedings againſt queen Mary 480
None ſo much imitated Henry V. as ſhe 508
Eminent, the moſt, ought only to be advanced to places of public truſt and dignity 38. 66, 67
Moſt obnoxious to be taken off 126. 152. 230
Are moſt feared 205. 208
When theſe are moſt impatient 207, 208
The pillars of every ſtate 208
Emperors, Roman, three or four, and at one time thirty, who called themſelves by this name 143
Endeavoured to make their power hereditary 267
The height of their regal majeſty 287
St. Auſtin's, and Ulpian's ſaying, that they were ſubject to no law, and why 310. 391
Some foully polluted themſelves with innocent blood 328
The title never ſolemnly aſſumed by, nor conferred on them 331
Theodoſius confeſſed, it was the glory of a good one to own himſelf bound by laws 391
The preſent one in Germany, an account of him 470
Empire, grounded on the pope's donation 39
Gained by violence is mere tyranny 88. 91
Acquired by virtue, cannot long be ſupported by money 122
The calamities which the Roman ſuffered 145
Settled in Germany 209
What made Dioclesian to renounce the empire 217
Under what ſort of governors it was ruined 234, 235. 267
Of the world divided between God and Caeſar 383
Not obliged by any ſtipulation of the emperor without their conſent 487
Enacting laws, continued in the people of Rome 124. 130
Enemy of a nation, who 38. 189. 227. 230
Every man is a ſoldier againſt him 189
Who the moſt dangerous to ſupreme magiſtrates 195. 378
Who is ſo to all that is good 218
Who is ſo to virtue and religion, is an enemy to mankind 226. 230
Thoſe that know they have ſuch abroad, endeavour to get friends at home 303
Sycophants the worſt enemies 353. 508
How a king declares he has none when he comes to the crown 396
A prince that ſeeks aſſiſtance from foreign powers, is ſo 475.
England, how the crown became hereditary 91.
The ſtate of it ſince the year 1660 137
How, and when the glory of our arms was turned into ſhame 180
How the ſucceſſion of her kings has been 204. 419
Her wars with France merely upon the conteſts for the crown 210
Her miſeries by our civil conteſts 212, 213
When her reputation and power was at a great height 240
Whether our kings were ever proprietors of all the lands 294
The naked condition of our anceſtors upon Caeſar's invaſion 305
Has no dictatorian power over her 307
Ever a free nation, and choſe her own kings 361. 433
Made her own laws 420, 421. 433
We know little of the firſt inhabitants, but what is involved in fables and obſcurity 402
The great number of our laws make them inconvenient 409
Wherein ſhe ought to be compared with Rome 414, 415.
Brave in William I. time, when ſhe ſaw her laws and liberties were in danger 416
What has coſt her much blood, and has been the cauſe of our late difficulties 420
Our ſecurity, the beſt anchor we have, ought to be preſerved with all care 503
The general impairing of her may be dated from the death of Henry V. 506
Epaminondas, forfeiture of his life (though ſaved) for ſerving his country longer than the time limited 189, 190
Ephori, eſtabliſhed to reſtrain the power of kings 90. 251. 419
When they were created 477

Equality, in all by nature 3. 5. 14. 25. 36. 61. 397. 482
Juſt among equals 62
Civil ſociety compoſed of equals 69
Leagues do not imply abſolute equality between parties 95
Where it is hard to preſerve a civil equality 127
Popular, to what it is an enemy 196
Of right, what is called liberty 264
Kings under this law with the reſt of the people 285
Equals cannot have a right over each other. 450, 482
No nation can have an equal within itſelf 483
Error, all ſubject to it 127. 149. 186. 231
Diſcovered by the diſcourſe of a wiſe and good man 214
By it popular governments may ſometimes hurt private perſons 227
A polite people may relinquiſh thoſe of their anceſtors, which they have been guilty of in the times of their ignorance 404
Would be perpetual, if no change were admitted 406
Where they are in government, though it may be eaſy for a while, yet it cannot be laſting 501, 502
Eſcheat of the crown for want of an heir 40, 41
Eſtates of the realm, divided the kingdom of France 255. 371, 372, 373
Their power in voting 259
Have diſpoſed of crowns as they pleaſed 370, 371. 419. 443, 444. *Vid.* Parliaments, aſſemblies general
Evil, what is ſo of itſelf, by continuance is made worſe, and on the firſt opportunity is juſtly to be aboliſhed 421
Eutropius, when a ſlave picked pockets, &c. but when a miniſter, he ſold cities, &c. 220
Excommunication denounced on the violators of Magna Charta 357

Fabius Maximus one of the greateſt and beſt of men that ever Rome produced 125
Fabius Quintus, in danger of his life for fighting without order, though he gained a ſignal victory 453
Factions about regal power and ſucceſſion, how to be prevented 204
The convulſion they make 207. 211. 464
Of the Guelphs and Gibelines 225, 226
Virtue and vice were made the badges of them 231, 232
Faith, *implicit*, to whom it belongs 6, 7. 381
Families, none more antient than others, and why 48
What required to make a complete one 69
When our anceſtors ſent to ſeek a king in one of the meaneſt of them in Wales 205
None that does not often produce weak, ignorant, or cruel children 334, 335
Famous men for wiſdom, virtue, and good government 155. 163, 164. 181
Have eyes, and will always ſee the way they go 381
Fathers, the power of fatherhood belongs only to a father 21. 49. 54
Cruel princes no fathers of their country 37, 38. 301, 302. 351, 352
Their character indelible 48. 54. 69
Adoption of them abſurd 50, 51, 52, 53, 54
Who deſerve the obedience due to natural parents 51
By uſurpation 57. 79
The fifth commandment how explained 57
Who has the right of fathers 68, 69
When it ceaſes 69. 75
Embrace all their children alike 72, 73
There is a ſort of tyrant that has no father 352
Favourites, not always the beſt of men 51, 52
Their influence over princes 116, 117
Whom the monarch commonly makes ſuch 217
How their exorbitant deſires are gratified 266
Fauſtina, two of them, who by their aſcendency tarniſhed the glory of Antoninus Pius and Marcus Aurelius 217
Fear, what it tranſports a wicked man to do 246
Renders communities gentle and cautious 247
Puts people on deſperate courſes 261
What is the meaſure of it to that magiſtrate who is the miniſter of God 320
Fear, when, if ever, ſaid to enter Caeſar's heart 421
Felicity, man's, where placed 3, 4
Females, vid. Women
Excluded from all offices in the commonwealth 364
Figurative expreſſions, all have their ſtrength only from ſimilitude 472
Filmer, his right of all kings 1, etc. 100, 101, 102
Takes the world to be the patrimony of one man 1, 2, 245
Uſes not one argument but what is falſe, nor cites one author but whom he has perverted or abuſed 2. 347
And his partiſans, why reſerved to this age 5. 417
His buſineſs is to overthrow liberty and truth 6. 507
His bitter malice againſt England 9
Makes God the author of democracy 12
His lord paramount over children's children to all generations 15. 17
His opinion, to whom all kings are reputed next heirs 30
Where his kingly power eſcheats on independent heads of families 40. 48
His adoption of fathers of provinces, for what 51
His notion, that we muſt regard the power, not the means by which it is gained 53. 78, 79. 188. 280. 390
His diſtinction between eligere and inſtituere 86, 87
His vile abuſing of the reverend Hooker 88. 95
His notion of begging a king 95
Abſolute monarchy to be the nurſery of virtue 110
Attributing order and ſtability to it 109. 147
Imputing much bloodſhed to Rome's popular government 126
His backdoor, ſedition and faction 140, 141
His opinion, that the worſt men in Rome thrived beſt 146. 151
That the nature of all people is to deſire liberty without reſtraint 162
His cypher of the form of mixed governments 166
That there is a neceſſity upon every people to chooſe the worſt men, for being moſt like themſelves 180
His deſcription of the tumults of Rome 215
Affirms that more men are ſlain in popular than abſolute governments 223

Filmer, his opinion of the extent of the cruelties of a tyrant 227
His attributing ignorance and negligence to popular governments 233
His notion, that the virtues and wiſdom of a prince ſupply all diſtempers of a ſtate 241
That there is no ſuch tyranny as that of a multitude 244
That kings muſt be abſolute 247, 248
His notion of a king's ceaſing to be ſo 248. 257
His whimſy about democracies 258
That all the peoples liberties flow from the gracious conceſſions of princes 263. 293
That there is no coming at a king, if he break his contract with his people 268
That a father of a family governs it by no other law than his own will 272
That patient obedience is due both to kings and tyrants 273
That there were kings, before any laws were made 273
That Abraham, Iſaac, Jacob, and Moſes were kings 287
That Samuel by telling what a king would do, inſtructed the people what they were to ſuffer 288. 291
That inconveniencies and miſchiefs are ſome of the eſſentials of kingly government 292
That all laws are the mandates of kings 293
His ridiculous ſaying, thoſe that will have a king 296
That the Jews did not aſk a tyrant of Samuel 300
That the people's cries are not always an argument of their living under a tyrant 302
That our Saviour limits and diſtinguiſhes royal power 306
That the tribute Caeſar impoſed was all their coin 307
Cites Bracton, as a patron of the abſolute power of kings 314
That St. Paul's higher powers meant only a monarch that carries the ſword, &c. 316
That kings are not bound by the poſitive laws of any nation 328. 347
That the original of laws was to keep the multitude in order 334
That laws were invented for every particular ſubject to find his prince's pleaſure 338
That kings are above the laws 341
His opinion when princes degenerate into tyrants 343
That tyrants and conquerors are kings and fathers 347
That the king ſwears to obſerve no laws, but ſuch as in his judgment are upright, &c. 354
That kings are not obliged by voluntary oaths, &c. 358
His principles animadverted on 378, 379
That obedience is due to a command, though contrary to law 382
That the king's prerogative to be above the law, is only for the good of them that are under it 385
His equivocal king 389
His opinion, that the law is no better than a tyrant 394
That a perfect kingdom, wherein the king rules by his own will 397
That the firſt power was the kingly in this nation 401
That all judges receive their authority from the king 409
That the power of kings cannot be reſtrained by act of parliament 417
That the king is the author, corrector, and moderator of both ſtatute and common law 420
His trivial conceits about parliaments, the time when they began, &c. 420. 424, 425
His notion about uſurpers and lawful kings 438
That the liberties claimed in parliament, are liberties of grace from the king, and not of nature to the people 441
That the people's language is ſubmiſſive to the king, but his is haughty to them 452
That kings may call and diſſolve parliaments at pleaſure 465
Admires the profound wiſdom of all kings 469
A bitter enemy to all mankind 493, 494
His book here lately reprinted, as an introduction to a popiſh ſucceſſor 494
His meaning of le roi le veut 504, 505, 506
Flatterers, what the vileſt of them dare not deny 7
What called by Tacitus 135
The Hebrew kings not without them 197
Their pernicious advices to what end given 201
Weak princes moſt ſubject to them 207, 217. 219. 236
Diogenes's ſaying to Ariſtippus 218
By what handle they lead their princes 229
Have made valour ridiculous 239
By whom thought the beſt friends, and moſt worthy of great truſts 380, 381
The author's wiſh, that princes would abhor theſe wretches 414
Almoſt ever encompaſs crowned heads 492
Fleets, when ours were very famous 240
Florence, the ſeditions there, and in Tuſcany 225
More depopulated now than any part of that province, though formerly in a few hours it could bring together 100000 well-armed men 225. 386
Folly; mankind does not univerſally commit, and perpetually perſiſt in any 41
Some are fools at 40 years of age 242
Lord chancellor Egerton ſaid he did not fit to relieve fools 360
Force, where it is the only law that prevails 113
What the Romans gained by the valour of their forces 130
All defence terminates therein 178. 257
Thoſe that uſe it, muſt perfect their work or periſh 186
Or fraud, in oppoſition to the laws of ones country, abſolutely monarchical 215
When the Spartan kings were overthrown by it 251
To be uſed, when there is no help in the law 262. 335. 479
Can never create a right 265. 278. 446
The French under a force they are not able to reſiſt 293, 294
What is gained by it may be recovered the ſame way 366. 446
When all diſputes about right naturally end in force 461

Forfeiture of liberty, how it can be 450
Fortune, of all things the moſt variable 120
How right is made a ſlave to it 204
Of a prince, ſupplies all natural defects 241
France, the ſalic law there 46. 93. 364. 366
Her ancient kings right how conferred on them, and what was her antient government 91. 444
Her revenge on England for all the overthrows ſhe received from our anceſtors 137
Frequently divided into ſeveral parties 144
Her races of kings four times wholly changed 144. 206, 207. 242. 253
The miſerable condition of her people 167. 208, 209. 239, 240. 460
Her greateſt advantages have been by the miſtaken counſels of England 167
Her bloody conteſts and ſlaughters for the crown 206, 207, 208, 209, 210
Had ten baſe and ſlothful kings, called, les rois faineans 207. 242
The regal power limited 210. 254
Had four kings depoſed within 150 years 210
Civil wars frequent there, though not ſo cruel as formerly 210
Compared with Venice 237
Her ſoldiers running from their colours 239, 240
Her general aſſemblies continued the exerciſe of the ſovereign power, long after Lewis XI's death 253
Had never any kings but of her own chooſing 254
Henry V. of England moſt terrible to her 254
Their laws made by themſelves, and not impoſed on them 254
The people have underſtood their rights 254
The reaſon of the people's miſeries 293, 294. 298, 299
The right to the crown is in a great meaſure from the law of that country. Inſtances hereof 371, 372
She does not allow her kings the right of making a will 373
By whom the power of conferring the ſovereignty was exerciſed 444
By the people's increaſing the power of their maſter, they add weight to their own chains 460
Her king cannot be called the head of his people, and why 475
Le roi le veut, & tel eſt notre plaiſir, are French rants; but no edict there has the power of a law, till it be regiſtered in parliament 504, 505
The conqueſt of her only to be effected by the bravery of a free and well ſatisfied people 508
Franks, ſoon incorporated themſelves with the Gauls 174
Fraud, accounted a crime ſo deteſtable, as not to be imputed to any but ſlaves 415
All wicked deſigns have been thereby carried on 471
Who delight in it, and will have no other miniſters but ſuch as will be the inſtruments of it 507
Free, what nations ſo eſteemed 10. 386
Vid. Popular Governments.
Men, how to know ourſelves ſuch 22. 77. 105. 364. 386
People, ſcarce ever conquered by an abſolute monarch. 110. 117
Philip of Macedon confeſſed his people to be free men 117
The Britons were ſo, becauſe governed by their own laws 421
Men, or noblemen, exempt from burdens, and reſerved, like arms, for the uſes of war 430
Free cities, what and who made them 450
Frugality, the virtues that are upheld by it 298
Fruits of our corrupt nature 100
Own labour 103
Recovered liberty 140
Victory, how gained and loſt 180
Always of the ſame nature with the ſeeds from whence they come 236

Genealogies, the Hebrews exact in obſerving them 28. 267
Of princes nicely to be ſearched into, would be dangerous to ſome crowns 42, 43. 45. 445
Of mankind very confuſed 41. 267. 365
Of being the eldeſt ſon of the eldeſt line of Noah 265
Geneva and Rome, wherein they only can concur 4
Genoa, how it is governed 139. 175
By whom that city was infected 175
Gentlemen, at this day comprehends all that are raiſed above the common people 429
Germanicus his modeſty in refuſing the empire, was the occaſion of his death 205. 360
Germany, how governed 139. 421
Equal to the Gauls in fortune, ſo long as Rome was free 182
The power of the German kings 252
The power of this emperor 252
From thence our original and government is drawn 321
When ſhe had no king 331
The emperors thereof reſtrained by laws 333
The Weſtern empire, how it came hither 366
Tacitus's account of the people's valour 422
Not imaginable, that theſe people, jealous of liberty, ſhould conquer this country to enſlave themſelves 424
No monarchy more limited 453
Gibeonites by deceit got Joſhua to make a league with them 359
Gladiators were ſlaves 127. 133
Their fury extinguiſhed with their blood 133
God, with an equal hand, gave to all the benefit of liberty 12
What ſort of kings he approves in ſcripture 15
Can ſave by few as well as many 16
Always conſtant to himſelf 28. 279
Never preſcribed any rule about dividing the world 43
The fountain of juſtice, mercy, and truth 56. 64
By a univerſal law gave no rule for the making of kings 87
Is our lord by right of creation 106
How he endowed the rulers of his people 111
His ſecret counſels impenetrable 120
What the uſual courſe of his providence 136
Helps thoſe who juſtly defend themſelves 179
His general ordinance 187
Gave laws to the Jews only 202

When he refuſed to hear the cries of his people 279. 286. 291
His anointed and accurſed 282
A law in Rome, that no god ſhould be worſhipped without the conſent of the ſenate 327
Good; every one ſeeks their own, according to the various motions of their mind 37. 78. 245
The public, the end of all government 94. 273. 304. 342, 343
Is more obſerved in mixed than abſolute ones 233
Of mankind depends on religion and virtue 229
Called evil, and evil good 317
Actions always carry a reward with them 379
Good and evil, but three ways of diſtinguiſhing between them 27
Good men, who deſerve to be called ſo 1
How they obey their princes 217, 218
Know the weight of ſovereign power, and doubt their own ſtrength 478
Goodneſs is always accompanied with wiſdom 344
Goſpel, the light of the ſpiritual man 229
Goths, their polity 139. 390
For above 300 years never contracted marriages, nor mixed with the Spaniards 174
Seized Rome, whilſt Honorius was looking after his hens 183
Subdued by the Saxons in one day 239
Grew famous by the overthrow of the Roman tyranny 310
Concerning ſucceſſion to the crown during their reign 363
Not above four in 300 years time were the immediate ſucceſſors of their fathers 368
In Spain overthrown by the Moors 369. 484
Their kings in Spain never ventured to diſpute with the nobility 419
Their kingdom never reſtored 484
Government, the original principles of it to be examined, and our own in particular 7. 109
An ordinance of God 13. 15
The ſeveral forms thereof left to man's choice 12. 15. 23. 37. 43. 44. 47. 67, 68. 72. 76, 77. 99. 124. 139. 160. 163. 258
The lawfulneſs of changing it, conſidered 13. 123. 139. 305
Deſpotical differs from the regal 16, 17. 59
The ground of all juſt governments 21. 154. 166. 411
No man has it either for or from himſelf 28. 96. 188. 248. 348
None ever began with the paternal power 30
To whom the conſtitution of every government is referred 37
All for the good of the people and their poſterity 55. 71, 72. 78. 96. 102. 109. 129. 161. 178, 179. 181. 351. 405. 461
Is a collation of every man's private right into a public ſtock 60. 75
Where juſt, it has ever been the nurſe of virtue 60. 66
Popular for whom beſt 62
For whom inſtituted 71. 74. 154
What ſort was ordained by God 103
The effects of one well ordered 120
What only deſerves praiſe 131. 133
How the beſt has been compoſed 138. 174
Regal had a mixture of ariſtocratical and democratical in them 141
Whence the denomination of all is taken 141. 148. 258
The foundation remaining good, the ſuperſtructures may be altered 142. 144. 146. 186. 304, 305
When it cannot ſubſiſt 149
The effects of a diſordered one 151
All ſubject to corruption and decay 160
None impoſed on men by God or nature 162. 166
Mixed compared with abſolute 164. 493
What the only juſt one, by conſent of nations 166
What may be imputed to it 170
None ever freer from popular ſedition than Switzerland 177
That the beſt, which beſt provides for war 178, 179. 181
None without civil wars, tumults, and ſeditions 185. 223, 224
The end for which it is conſtituted 194, 195. 247. 451
The Roman, how introduced 198
Expoſed to the moſt infamous traffic 220
Of what parts it may conſiſt 258
Is a great burden to the wiſe and good 261, 262. 336. 338. 351. 387
To reform it, is to bring it to its firſt principles 262. 484
Queſtions ariſing concerning our own, muſt be decided by our laws, and not by the writings of the fathers 308
St. Paul's obedience to higher powers, muſt be underſtood of all ſorts of government 316
What would make all in the world magna latrocinia 329
When the ends of it are accompliſhed 389
Moſt of them have been mixed, at leaſt good ones 390. 493
What only is reckoned good 398, 399
Our own the ſame with the Roman in principle, though not in form 415
From whence the great variety of them proceeds 461
The Engliſh, not ill conſtituted 462
By what means the foundations may be removed, and the ſuperſtructure overthrown 464
In a well conſtituted one the remedies againſt ill magiſtrates are ſafe and eaſy 477
Wiſdom and valour required for the inſtitution of a good one 485
Where it is either entirely to be changed, or reformed according to its firſt inſtitution 485
The bleſſings of an abſolute one 494
Its eſtabliſhment is an arbitrary act, wholly depending upon the will of man 501
Governors appointed to execute the laws for the good of the people 60. 63. 73. 190. 484
The laws appoints helps for their infirmities, and reſtrains their vices 261
The people's creature 287. 297. 450. 481
Where they are removeable, if they will not be reclaimed 484
The good and bad make the people happy and miſerable in their turns 493

Grants of king John to the pope, declared by parliament to be unjuſt, illegal, etc. 357
What implies an annihilation of ſome grants 399
Where they ought well to be proved, that the nature and intention of them may appear 436
Of what nature thoſe of our kings are 425
Of lands, where they have been reſumed 437
Grecians, knew no other original title to government, than that wiſdom, etc. which was beneficial to the people 35
Wherein they excelled other nations 110
Overthrew the vaſt army of the Perſians 116, 117
Were reduced to yield to a virtue greater than their own 136
No abſolute monarch among them eſtabliſhed by law 147
Have been, by diſorder in government, expoſed as a prey to the firſt invader 183
When they were happy and glorious 223
Their virtue expired with their liberty 236
The word Tyrant came from Greece, and what it ſignified 301
Flouriſhed in liberty in the time of Saul 304
Grotius, his explanation of ſovereign and limited power 190. 256. 445
Wherein he juſtifies ſubjects in taking up arms 229
His making St. Peter and St. Paul perfectly agree, about their different phraſes of ordinances of God, and ordinance of man 318
His ſaying, qui dat finem, dat media ad finem neceſſaria 466
About king's ſtipulations, and right of ſending ambaſſadors 487
Guelphs and Gibelines, their factions in Tuſcany 134. 225, 226
Genoa infected with their factions 175
Guſtavus (Charles) his confeſſing to an ambaſſador how he ought to reign over the people that had choſen him 443
He and his uncle Adolphus were content with the power that the laws of their country gave them 470

Hannibal, killed more great Roman captains than any kingdom ever had 170
The Samnites embaſſy to him 171
How he loſt the fruit of all his victories 182
When he invaded Italy, no country ſeemed to have been of greater ſtrength 224
What to be done if he be at the gates 466
Hanſeatic towns 177
Hatred univerſal incurred by princes, who always fear thoſe that hate them 227. 232. 276
To all that is good 230
Head, why kings are called by this name, and the import of the word both in ſcripture and profane authors 471, 472
The differences between the natural and political 473
What the office of a head is in a natural body 474, 475, 476
Hebrew judge, different from a king 102
Kings not inſtituted by God, but given as a puniſhment 101
How their government conſiſted 138. 175
Kings, their power exceeded the rules ſet by God 197. 257
What their diſcipline 251
In their creation of judges, kings, etc. had no regard to paternity 264
Like to their neighbours in folly and vice, and would be like them too in government 279
Their power greater than what the law allows to our kings 310
Whether the law given them by God be ſo perfect as to be obligatory to all nations 408
Heir reputed, the abſurdity of the notion 30, 31, 32, 33, 34. 40. 48.
Next in blood 45. 69, 70. 93, 94. 112. 444
Annexed to one ſingle perſon 73
All the children of Noah were his heirs 73
Next to the crown ſet aſide 93. 95. 369, 370, 371
Beloy's extravagant doctrine of an heir apparent 375
Enjoys the ſame right as a parent, and devolves the ſame to his poſterity 449
Hengiſt and Horſa, on what terms the county of Kent was given them 434
Henry IV. of France, how he deſired to recommend himſelf to his people 375
I. of England, whether he was an uſurper or not 438
V. his care was to pleaſe his people, and to raiſe their ſpirits 506
Was terrible to France 254
His character 506, 507, 508
VI. became a prey to a furious French woman 506
VII. had neither croſs nor pile for his title 440
VIII. acknowledged the power of the parliament, in making, changing, and repealing laws 345. 416
Heptarchy, when this was divided into ſeven kingdoms, each kept ſtill the ſame uſage within itſelf 423
Could as eaſily unite the ſeven councils as the ſeven kingdoms into one 424
Hercules, an account of him 137
Hereditary right cannot naturally be in any 44. 70
Prerogative of dominion, how underſtood 60
Right, as a reward of virtue 80
How a kingdom comes to be ſo 90, 91
Crowns ſo as to their ordinary courſe, but the power reſtrained 139
Monarchies, in them no care is taken of him that is to command 181
According to proximity of blood, not preſcribed by any laws of God 203
Children ſeldom prove like their parents 221
Crowns, five different ways of diſpoſing them 363, 364
Heroum regna 35. 67. 273
The government of whom 264
Hiſtory Roman, Tacitus ſays, it wanted men to write theirs 234
Hobbes, ſcurrilouſly derides Plato, Ariſtotle, and Cicero 37
His bellum omnium contra omnes 42. 48. 378
His hoſtis et latro 188
The firſt that contrived a compendious way of juſtifying kings in the moſt abominable perjuries 355
Holland, of great ſtrength ſince the recovery of their liberty from the Spaniſh yoke 118

The war with them in 1665 240, 241
How they have defended themſelves from the greateſt monarchies 316
The ſtates are called high and mighty lords; and the word heer, which ſignifies lord, is as common as monſieur in France, &c. 432
The condition of the 17 provinces of the Netherlands, when they fell to the houſe of Auſtria 460
The power of the ſtates-general, how limited 487
Honours, the higheſt falſly attributed to ill men 52
Given to ill-gotten wealth 65. 120, 121. 137. 220, 221
To ſuffering virtue ſometimes 149
Where they have been the rewards of vice 156
To thoſe who differved the commonwealth 164, 165
Juſtly beſtowed on thoſe that rightly perform their duty 192
From whom purchaſed 219
Given for ſervices done to the public 266
Princes could not without breach of truſt confer them upon thoſe that did not deſerve them 425
Hooker, his miſtake in the fundamentals of natural liberty 11
His admirable ſaying about lawful powers 88
Slighted by Filmer 95. vid. 11
Hottoman, his character and account of the French kings 253
Human nature, the miſerable ſtate of it, if not improved by art and diſcipline 304
Frailty, allowances muſt be made for it 393
Hurt, they do none who do nothing, where this rule is falſe 207

James I. (king) his ſaying about his making of judges and biſhops 229
Acknowledges himſelf the ſervant of the commonwealth 229
Said he was ſworn to maintain the laws, and ſhould be perjured if he broke them 343. 504
James II. what we might expect from him 494, 495
Japhet, this part of the world ſeems by the ſcriptures to be given to his ſon 365
Jealouſy of ſtate 205. 213
Jeſuits, joined to Geneva 4
To be believed with caution 68
The preſent emperor of Germany too much governed by them 470
The ſoul that gives life to the whole body of the popiſh faction 494
The order baniſhed out of the kingdom by an arret of the parliament of Paris, but refuſed by thoſe of Tholouſe and Bourdeaux 505
Jews had a great veneration for the houſe of David, and why 96
Grown weary of God's government 106. 300
Had leave to deſtroy their enemies 113
Idolaters among them in David and Hezekiah's days 156
Idolatry the production of the government they had ſet up 198. 250
Submit to the Roman power 306
Thought Chriſt's firſt work would be to throw off the Roman yoke 308
Being converted, thought themſelves freed from the obligations of human laws 326
Some pretend to know their original 365
A proclamation to extirpate them 402
Imperator, a name given by the Roman armies to pretors and conſuls
Imperium ſummum ſummo modo } 92
Modo non ſummo } 170
Liberrimum } 444
Ab eo à quo ſpiritus } 479
Impoſing on people's conſciences
On ſome princes how eaſy it is 219
Incolae, who they are at Venice 138
Diſtinction between them here and cives 467, 468
Indemnity, the aſſurance of it would turn men's other vices into madneſs 269
Induſtry, what is a ſpur to it 233
Infancy, vid. child
Inheritance, the common diviſion of it among brothers 73, 74
Where it gave no right to crowns 91. 95
To one family 93. 95. 112
Of the ſword left to families 114
What the apoſtles left to their ſucceſſors in relation to the ſupreme power on earth 195
Private, many controverſies ariſe upon them 202
What right is equally inherited by all children on the death of their parents 263
William I. did not leave the kingdom as ſuch at his death 325
What belongs to females 365
Little regard to it in the Auſtrian houſe according to blood 373
In ſome places the law gives private inheritance to the next heir, in others makes proportions and allotments 376
Injuries, the ways to prevent or puniſh them, either judicial or extrajudicial 187. 195
Great ones, will one time or other fall on thoſe that do them 257
The Italians ſay, he that does an injury never pardons 276
Thoſe that are extreme, when ſo to be underſtood 344
Injuſtice, what is ſo in the beginning, can never be the effect of juſtice 398
Inquiſition of Spain and other places 328. 495
Inſtinct, what 104
Inſtitution, he that inſtitutes may alſo abrogate 15. 55.
Is an election
Of a kingdom is the act of a free nation 255.
No prince had a more ſolemn one than Saul 280
Some kings have by it but little power 311
The magiſtrates prerogatives depend upon it 330
Of power is coercive 333
When princes deflect from the end of theirs 341
Wherein the end of it chiefly conſiſts 378. 388
Often the corruption of the ſtate is taken for it 404
They who inſtitute a magiſtracy, beſt know whether the end of the inſtitution be rightly purſued or not 442. 478
Integrity of manners makes laws as it were uſeleſs 155
Never ſubſervient to the luſt of princes 156
Makes men contented with a due liberty 164

Preſerves popular equality 196
Cannot be found in abſolute governments 222
Preſerves the people's ſafety 298
Intereſt, what advantages are reaped from uniting the nation's to that of the government 238
Perſonal, preferred to the public good 298
Interregnum, that there can be none, a fundamental maxim of great monarchies 202
John's (king) grants to the pope declared by the parliament unjuſt, illegal 357
Joſephus of the Jewiſh government 101
On what account he calls it a theocracy and an ariſtocracy 104. 258
Says, their princes were to do nothing without the advice of the Sanhedrim, or to be oppoſed if they did 250
Joſhua, had neither the name nor power of a king 102. 275
Iſaac, his character 16
Iſraelites, had no kings in the firſt inſtitution of their government 35
Nor till 400 years after 402
Strangers only excluded from being kings 87
Their government ariſtocratical 100
What the effect of their having kings 113. 257
After Solomon, perpetually vexed with civil ſeditions and conſpiracies, etc. 198
Aſked for a tyrant (though not by that name) when they aſked for a king after the manner of other nations 300
Not known certainly by what law they were governed 402
Lived under the power of tyrants whoſe proclamations were laws 495
Italy, when ſhe lay deſolate 120. 200
How her commonwealths have flouriſhed and decayed 134, 135. 184. 200. 224, 225
Charles VIII. of France conquered the beſt part of it without breaking a lance 168. 183. 281
Judge, where every man is to be his own 76, 77. 342, 343. 470. 480, 481
Who ſhall be between prince and people 192, 193. 341, 342. 377. 405
No prince fit to be judge of his own facts 341, 342. 386. 481, 482. 484
The power of judging when it is fit to call the ſenate or people together, to whom and by whom referred 442. 465
The parliament the beſt judge in dubious caſes 469, 470. 484
Where it is not fit to be a judge in his own caſe 482
Judges (ſuch as Joſhua, Gideon, etc.) whether their power was regal and juſt or not 26, 27. 270
Whether there be any concerning kings titles 202, 203
The power of making them 229
Sometimes the courts are filled with ill ones 232. 411
Appointed to decide the conteſts ariſing from the breach of contracts 269
Their opinion concerning ſhip-money 296. 488
The religion of their oath 339. 346. 392. 410, 411, 412
Parliament owned by kings to be judges of their ſtipulations 358
What they ought to be, and in what ſenſe choſen by the king 392
Who were executed as traitors for ſubverting the laws of the land 393. 411. 488
What act Edward III. promoted for his judges to do juſtice 394
The general rule they are ſworn to obſerve 395. 410. 488
The power by which they act is from the law 408, 409, 410
When they become the miniſters of the devil 414
The ſad conſequence of having all kings conſtituted judges over the body of the people 469, 470. 482, 484
To determine controverſies in a matter of right 482
Whoſe commands they are bound to obey 488
Judgment perverted, the ill effects of it 8
Future, not ſufficient to reſtrain men from being vicious 314
Here they are paſſed by equals 410
Thoſe the kings of Judah gave, were in and with the Sanhedrim 411
None that is right can be given of human things, without a particular regard to the time wherein they paſſed 464
Kings can give none upon any of their ſubjects, and why 486, 487. 489
Human is ſubject to error 505
Juries, grand and petit, their power 392. 410
How the judges are aſſiſtants to them 410, 411
In whoſe ſight they give their verdict 488
Juſtice, has always truth for its rule 28. 32. 69
What the proper act of it 63
Of every government depends on an original grant 79
Has ſometimes been perverted by the deceit of ill men 149. 393
The ſword of it for what uſe and end 187
Where it will be expoſed to ſale 220
The rule of civil and moral actions 229
How well adminiſtered in republics 316, 317
What is meant by it 326. 329
The diſtribution of it juſtly is a work above the ſtrength of one man 338
When the courſe of it is certainly interrupted 379
Deviations from it 393
Where it is beſt adminiſtered 405
Overthrown by the number of laws 409
In receiving it the king is equal to another man 411
Magiſtrates made to ſee it well executed 484

Katherine de Medicis, ſaid never to have done any good but by miſtake 151
King-craft, what 243. 255, 256
Was wholly exerted in the ſubverſion of the laws of France, and the nobility that ſupported them 506
Kingdom, the patriarchs had a ſpiritual one 16, 17
No paternal one among the Hebrews 26
Thought never to be bought at too dear a rate 34
How the firſt kingdoms were ſet up 40
What are lawful ones 60
What it imports 90
One poſſeſſed by nine ſeveral families within 200 years 113

All have their various fluctuations, through ill discipline or conduct 115. 179
The greateſt have been deſtroyed by commonwealths 182
Diſputes about them moſt difficult and dangerous, and very bloody in ſeveral inſtances 202. 206, 207
Of France divided by the eſtates of the realm 255
Not eſtabliſhed but for the good of the people 261
Of Granada, their uſage of their princes 261
All erected at firſt by the conſent of nations 265
Frequently reduced to their firſt principles 265
Some elective, ſome hereditary, and how directed 444, 445
Conſtituted by conquering armies, and thoſe eſtabliſhed in the moſt orderly manner 446
And ſtates, how they came to be erected 451
Kings, the prerogative or royal charter granted to them 2. 66
The end of their inſtitution 4, 5. 13. 37. 39. 55. 63, 64. 79. 91. 231. 413. 484
Whether they may be reſtrained or cenſured 5. 13. 40. 58. 140. 190. 192, 193. 250. 257. 261. 285. 333, 334. 445. 449. 467. 481
In what ſenſe they are like other men 7. 49. 107
Evil ones will have evil miniſters 8. 159
The relation between them and the people 11
The only ſort mentioned in ſcripture with approbation 15. 102. 297. 389
The firſt a cruel tyrant 18
Who taken from out of the leaſt family of the youngeſt tribe 26
All not the natural fathers of their people 30
Whom the antients choſe for theirs 35, 36. 70. 102
Not all of them wiſe 50. 142. 469
A king by nature, who 62. 65. 68. 108. 114. 318. 398
No deſign to ſpeak irreverently of them 83. 160
Set up by the nobles, antients and people 85. 87. 90, 91. 95. 130. 255. 257. 348. 369
All not alike in power, nor ſpirit and principle 91. 344
Some good and ſome bad 470. 493
Whether any are immediately ſo on the death of the predeceſſor, and before they are proclaimed 95, 96. 202
Given in wrath 102, 103. 141. 374
426700 kings 105
Many great ones overthrown by ſmall republics 110
Few poſſeſs the qualities requiſite 112. 221. 249. 260
The name thereof aboliſhed 139. 331, 332
Regis ad exemplum, not always ſo in all 156
A virtuous one, but a momentary help ſometimes, when his virtues die with him 169. 208. 221
Whether thoſe may be thrown down that ſet up themſelves 193
The ſlothful and negligent accounted great evils 207, 208, 209. 214. 232. 234
The beſt liable to be corrupted, and ſubject to miſtakes and paſſions 217. 386. 481
Who ſaid to be like a phaenix 221
None ſo vicious but will ſometimes favour juſtice 227
Apt to live under the power of their luſts 229
Wherein juſt ones will find their honour and ſecurity 232
Where lawful ones have proved equal to the worſt uſurpers 228
Whoſe condition moſt miſerable, and why 243, 244
Some have experience as men, but not otherwiſe 243
The name cannot make a king, unleſs he be one 245. 455
Have a power of granting honours, immunities, etc. out of the public ſtock 248. 263. 425. 467
None to have more power or abilities to perform his office than Moſes 249
Advanced by abjuring their religion 254
Under the happy inability to do any thing againſt the laws of their country 255, 256. 260. 270. 336. 375. 391. 478
Where they have their ſhare (and the ſenate theirs) of the ſupreme authority, the government is beſt ſupported 256
Have found out now eaſier ways of doing what they pleaſe 261
How there would be as many kings in the world as men 264
If they have no title, they muſt be made ſo either by force or conſent 265. 278
The conſequence of being unaccountable 268
Have no other juſt power than what the laws give 271. 297
The ſafety of their kingdoms, their chief law 272
The firſt were of the accurſed race, while the holy ſeed had none 274
By what wicked means many of them have come in 276
Of Iſrael and Judah under the law not ſafely to be tranſgreſſed 283
Why thoſe of Iſrael committed many extravagances 284
Judged by the great Sanhedrim 285
This ſort of government the people's creature 288. 297. 450. 456. 484. 496, 497
Not to claim the liberty of doing injuſtice by virtue of their prerogative 288, 289
Bound up to the laws as to matters of property 29.
Not to be too powerful, nor too rich 2.6, 297
Of Iſrael, though they led vaſt armies into the field, ſeem to have poſſeſſed but little 299
What their government ought to be 30.
Of England reign by law, and are under it, and why 307. 310. 314. 489
What will endear them to their people 311
The ſovereign power often meant by this name 313
What meant by lawful ones 315. 339, 340. 348
Why thoſe of Judah could make no laws 319
May be feared by thoſe that do ill 319, 320
How made in the Saxon times 321
What thoſe of the greateſt nations have ſuffered 329
What is that king which never dies 340. 488
Cannot mitigate or interpret laws 345, &c.
When ſaid to become perjured 343
Not maſters but ſervants of the commonwealth 348. vid. 256

Can-

Cannot be interpreters of their own oaths 353
Compelled to perform the conditions of Magna Charta 357, 358
May reſign, if they will not obſerve their oaths 362, 363
Next in blood, generally cannot be ſaid to be kings till they are crowned 363. 366
How he is not to be heard 394
The regal power, not the firſt in this nation 401
Where the ſame power that had created this government, aboliſhed it 403
What our anceſtors did with relation to them 403
Judges rightly qualified are to inſtruct them in matters of law 410
Wherein they are equal to other men 411
None as ſuch have the power of judging any 411. 413. 486, 487
Where they ceaſe to be ſo, and become tyrants 413
Their power not reſtrained, but created by Magna Charta and other laws 417
What is natural for the worſt of them to do 418
The Norman, had no more power than the Saxon, and why 424
Tacitus ſays, they were taken out of the nobility 425
Said to be choſen, or made, and ſometimes depoſed by their great councils 433. 467
Never maſters of the ſoil of England 433. 450, 451
Why they ſpeak always in the plural number 436
The titles of ours examined into 439
Whom the parliament have made are lawful, or we have had none for theſe 700 years 440
Their power of calling parliaments was given to them 442. 465
Naturally delight in power, and hate what croſſes their wills 445. 500
The moſt abſolute princes in the world never had this name 447
Some ſubject to a foreign power, ſome tributary, and the Romans had many depending upon them 448, 449
The acts of one de facto, conſidered 455, 456
Wherein the eſſence of a king conſiſts 455
Deterred from endeavouring to ſeduce any of their great men from their duty 463
Who are a great calamity to a nation 465. 507
Who only are the heads of the people 471. 473, 474, 475
If their actions are to be examined, and their perſons puniſhed 480
None leſs capable oftentimes of forming a right judgment than they, and why 481
Nor can be preſent in all their courts 486
Do not ſtipulate for themſelves, but their people 487
In what caſes they are perpetually minors 488
Their power not univerſal, for many things they cannot do 489
May in ſome degree mitigate the vindictive power of the law 490
The advantage of their being reſtrained 493
Not created to make laws, but to govern by them; and what is ſignified by Le roi le veut 504, 505
Are ſworn to paſs ſuch laws as the people chooſe 504. 507
King's-bench, for what end eſtabliſhed 413
The king that renders juſtice is always there, etc. 488
Knight's ſervice, what 428
Knighthood, the dignity of it, and what was accounted a degrading 428, 429
Knights of ſhires in the Saxon times 429

Laws, the prevalency of them over ſovereign commands 2. 10
Who beſt obeys them 4
The end of them is to enjoy our liberties 10, 11. 312. 402
Inveſt magiſtrates with power for the public good 39. 72
Of England acknowledge one only heir 43. 73
Said to be written reaſon 346
Have in them a conſtraining force 88
To whom the power of making them belongs 88, 89. 337
Are the meaſure of power 90. 92. 108. 249. 262. 488, 489
Of each country create a right to the perſon that governs it 91
Preſcribe rules how power ſhould be tranſmitted 92
Where good ones do no good 110. 275
To be ſuited to preſent exigences 123. 144
Make no diſtinction of perſons 150
Lex perduellionis 153
Made in a ſort uſeleſs by integrity of manners 155
Abhorrers of the dominion of it 162
Inſtituted for the preventing of evil 187. 193. 256. 362
Thoſe that go beyond them act therein as private perſons 189
Who moſt reſtrained by them 192
Subſiſt by executing juſtice 194. 275
Concerning the ſucceſſion 202. 337
Tricks at law to put men to death 205. 232
When in force, men of wiſdom and valour are never wanting 214
When they were overthrown 226
The deſpiſers deſtroyed without law 251. 256
Do not always go by plurality of voices 259
Of every place, ſhew the power of each magiſtrate 269
Were before kings 273
Proofs hereof 274. 334
Of God, not to be abrogated by man 285
Our kings can make none of themſelves 310. 345 445
We know none but thoſe of God and ourſelves 311
Are not made in vain 314
Some neither juſt nor commendable; inſtances thereof 328, 329. 408
The directive power, which is certain, has a power over the conſcience 328
The ſanction that deſerves the name of a law 329. 337. 389. 404. 408
To what end made as to magiſtrates 334, 335
Princes and nations both gainers by the due obſervance of them 336. 338. 362. 479, 480
That is not a ſtate or government which has them not 337
Athenians not without them when they had kings ibid.

How

How ſaid to be above the king 339
Can only be altered in parliament 345, 346. 397. 408. 420
For what reaſon eſtabliſhed: an encomium 346
Who violate thoſe of nature in the higheſt degree 351
Of one's country to be ſubmitted to 364
Of nature, eternal 365. 371
By whom the rigour of it is to be tempered 392
None made by man can be perfect 396. 408, 409. 417
By them kings became firſt what they were 403, 417
Thoſe good for one people, that are not ſo for all 406, 407
The ſtatute of Henry VII. concerning a king de facto, for what end made 455, 456
Plain ones have been induſtriouſly rendered perplexed 464
Good ones preſcribe ſafe remedies againſt the miſchiefs of ill magiſtrates 477, 478
Where they are merciful both to ill and good men 479
Should aim at perpetuity 492
The miſchiefs effected by a perſon's word having the force of a law 493
When they may be eaſily overthrown, it will be attempted 502
What gives the power of law to the ſanctions under which we live 503
Leagues, do not imply abſolute equality between parties 95
With conquered nations 127
League-factions and wars of the Hugonots 143, 144
How faithfully they have been obſerved 177
Men cannot too much rely upon them 177, 178, 179
Thoſe that make ſuch as are detrimental to the public are puniſhable 191
Made againſt the Hollanders 316
Of Joſhua with the Gibeonites gained by deceit 359
Made on a national, not perſonal account 487
Learning makes men excel in virtue 116
Said to make men ſeditious, but diſproved 109. 147
Legiſlative power of Rome and Sparta continued in the people 125. 130. 320
When it came to be ſcorned 127
The magiſtratical power receives its being and meaſure from hence 333
Cannot be conferred by the writ of ſummons, but muſt be eſſentially and radically in the people 496
Is always arbitrary 501
Only truſted in the hands of thoſe who are bound to obey the laws that are made 504
The king cannot have it in himſelf, nor any other part of it than what is formal 506. 508
Legiſlators ſhould always be of the wiſeſt men 88, 89
Wherein their wiſdom conſiſts 145
Wherein they ſhew themſelves wiſe and good 501
Legitimacy contracted. Vide Baſtards. 94
Some children, though born in wedlock, utterly rejected as being begotten in adultery 376
Lewis XI. his ſubverting the laws of his country 252
XIV. accounted his not being able to act contrary to law, a happy impotence 375
Liberty, the notions thereof, and from whence 3. 5. 12
Natural, the conſequence if removed 6
Wherein it ſolely conſiſts 10. 348
Filmer's notion of the greateſt liberty in the world 10
Oppugners of public liberty 11
Univerſal aſſerted, and what that is 17. 24. 44. 76
The aſſertors thereof have God for their patron 60. 160
Produces virtue, order, ſtability 110. 148
The loſs of it in the Roman empire 114, 115. 118, 119. 128. 133. 152. 400
The mother and nurſe of virtues 114. 117. 133. 171. 218. 226. 236
Made the moſt virtuous people in the world 135
When ſubverted, the worſt men thrive beſt 151, 152
How our natural love to it is tempered 162
None fought it but with ſome reſtraint 163
What the love of it inſpires 171. Vide 148
At home, and war abroad 172
When this is loſt, kingdoms and ſtates come to nothing 180. Vide 117. 134, 135
Patricians the beſt defenders of it 186
The way to recover it 195
Cannot be preſerved, if the manners of the people be corrupted 217
None remained in Rome, when Sylla reſigned his power 226
When loſt, excellent ſpirits failed 234, 235
A people can deſire nothing beſides it 247
Cannot ſubſiſt, if vice and corruption prevail 262
Is a right common to all 263, 264
God gave the Iſraelites this law 286
Who have no true ſenſe of it 291
Our anceſtors left us the beſt laws they could deviſe to defend it 312
All by the law of nature have a right to their liberties, lands, goods, etc. 351. 435
What principles make men lovers of it 378
None can ſubſiſt where there is an abſolute power above the law 386
Where it is deſtroyed by the prerogative 387
Of a people, naturally inherent in themſelves 401. 435. 450
The value our anceſtors ſet upon theirs 408, 409. 451. 499
None has better defended them than this nation 415. 499
To it Tacitus attributes the German bravery 422
What is the utmoſt act of it 424
The exerciſe of the natural liberty of nations, in the ſeveral limitations of the ſovereign power 444
Of a people, the gift of God and nature 449
Forfeited or reſigned 450
No veneration paid to magiſtrates can leſſen the liberty of a nation 452
Nothing valuable to it in the opinion of the Romans 458

Eaſy to get partiſans to make good by force the greateſt violations of it 462
How to uſe one's own with relation to the public 482
Liberty with a miſchief 495, 496, 497
Of thoſe who act in their own perſons, and of thoſe who ſend delegates, is perfectly the ſame 497
That for which we contend as the gift of God and nature, remains equally in all 498
Lineal ſubjection never learned from Moſes 67
Succeſſion, where not followed 93, 94
London, the privilege of the common-hall 467
Lord paramount, over whom 15, 16, 17, 18
From whence he muſt come 24
None by nature over his brethren 73
The miſchiefs they both do and ſuffer are very great 260
Lords, how they have loſt the authority which they had formerly 464
Lord's-day, not to be ſpent in ſports and revellings 382
Love to one's country, commonwealths have it moſt 169. 172, 173
The happy effects of it 171
A reſolution to die for, or live with it 171. 175. 178
The way to make people in love with it 178. 210. 237
This now turned into a care of private intereſt 184, 185
The behaviour of thoſe that are lovers, etc. 210. 235
Occaſions ſometimes wars and tumults 224
Loyalty, thoſe that boaſt loudeſt of it moſt apply it the wrong way 262
Lucullus, his little army put Tygranes with 200,000 men to flight 118
Luxury of the Romans, the occaſion of their ruin 137
Brought into Rome by C. Manlius 155
Expoſes the virtuous to ſcorn 218, 219
When in faſhion, the deſire of riches muſt increaſe 220
The braveſt nations moſt enſlaved by it 299
Lycurgus, his laws received their authority from the general aſſembly 320. 337
Abſurd to think of reſtoring his laws 406
To what the long continuance of them is attributed 492

Macedonian kings, their power was but *ſmall* 117
Their army overthrown by Paulus Aemilius 179
Vid. Monarchy
Machiavel, his admirable ſaying 110. 245
Magi, who uſurped the dominion of Perſia after the death of Cambyſes 189
Magiſtracy, can have no intereſt diſtinct from the public 55. 156
Its office is to execute the law 55. 187. 389
If the people be baſe, etc. it cannot be ſupported, be the ruler ever ſo perfect 161. 200
Whether it be that power which above all reſtrains liberty 162
Strangers admitted into that of Rome 173
The effect of regal power committed to an annual or otherwiſe choſen magiſtracy 180. 234
None can have the right of it that is not a magiſtrate 188
Where it had nothing to do in ſpiritual things 308, 309
The ordinance both of God and man 318. 330, 331, 332
Circumſcribed by ſuch rules as cannot be ſafely tranſgreſſed 321, 478
Where obedience is due 328, 329, 330
On what the right and power of it depends 330
The nature of it 452, 453
None now in being, which owes not its original to ſome judgment of the people 485
Magiſtrates, by whom conſtituted 6. 63. 72. 268. 385
To what end ſet up 37. 55
Miniſters of God 55. 306
How they are helpful to nations 64. 102. 466. 473
Under ſeveral names and limitations 93. 269
Jewiſh, wherein like the dictators of Rome 103
Puniſhable with death by the Roman law 154. 189, 190
Annual election of them 170
Have enjoyed large powers, that never had the name of king 192
How to be reſtrained 194. 333, 334. 478
A particular character of good and evil ones 379, 380
When they were temporary and occaſional 403
Walk in obſcure and ſlippery places 478
What to be done to thoſe who deſpiſe the law 480
Wherein their ſtrength is 483
The firſt may be virtuous, but their ſucceſſors may ſoon be corrupted 502
Magna Charta grounded on king Alfred's laws 10
The Jews had none ſuch 306
What it obliges the king to ſwear to 340
Puts every thing on the laws of the land, and cuſtoms of England 345
Is only an abridgment of them 356. 433
Not the original, but a declaration of the Engliſh liberties 417. 501
The rights the nation have reſolved to maintain 433
Male-line examined 46. 203
Malice, is blind 154
Seditions, etc. ariſe from thence 185, 186
Mammelucs, their great defeat near Aleppo by Selim 167
Accounted themſelves all noble, though born ſlaves 432
Man naturally free 3. 22. 449, 450
Every one chief in his own family 14. 20
Cannot overthrow what God and nature have inſtituted 19. 312, 313
Creates governments and magiſtrates 22
None knows originally from whom he is derived 26. 29. 42. 365
Whence his miſery proceeds 64
Wants help in all things 64. 492
What makes a natural difference among men 66
All ſubject to error 127. 201. 336
Enters into ſome kind of government by reaſon 163
Follow what ſeems advantageous to themſelves 236
What every one ought to be 275
None can ſerve two contrary intereſts 304
Are all by nature equal 397

Where

Where every one is a magiſtrate 465
Manors, etc. enjoyed by tenure from kings 436
Marriages, often declared null 94
Of plebeians with patricians 124. 142. 145
Where proved of no force to legitimate children 376
A power muſt be lodged ſomewhere to decide them 377
Maſters, how far their commands are binding 382, 383
Only to decide conteſts between them and their ſervants 483
Maxims, nothing to be received as a general one, which is not generally true 350
Mazarine, the ways of his advancement 222
Medici, of the title of that family to Tuſcany 459
Members of parliament ſent to ſerve for the whole nation, not for a particular borough, etc. 497
Inſtructions are often given to them 499
Have no power before they are choſen, nor ever could, if thoſe that ſend them had it not in themſelves 500
Muſt take care that the commonwealth receives no detriment by their votes ibid.
A few poſſibly may be corrupted 502
Mercenary army. *Vide* Soldiery
Their buſineſs is to keep on their employment 168
Soldiers, always want fidelity or courage 179. 239
Courtiers, will expoſe not only honours, but even juſtice to ſale 220
Wretches, their power at court 222
Auguſtus Caeſar had thirty legions of them to execute his commands 400
Merit, men rarely make a right eſtimate of their own 201
The way of advancement to honour 233
What preſerves, and what aboliſhes it 236
Micel-Gemotes were general aſſemblies of the noble and free men 423. 430. 467
They ſet up ſeven magiſtrates over the heptarchy 424
Of what they were in the beginning of the Saxons reign 467
Miltiades, his deſire to wear an olive-garland for his victory at Marathon, and the anſwer given to him 266
Miniſters, according to the temper and genius of the prince, 8
Of the devil, who 43, 56. 59. 318. 328. 329
Of God, who 55, 56. 141. 231, 317. 328, 329.
Muſt receive their dignity from a title not common to all 320
Every man by his works will declare who he is 327
The devil's of a lower order 381
Of God, how they may become the worſt of men 391
What ſort have ſeldom eſcaped puniſhment 393
Of the devil, have always carried on their deſigns by fraud 471
Miſtakes in puniſhments carefully repaired by honours 127
Seditions, tumults and wars ariſe from thence 185
None in Sparta after Lycurgus's laws were eſtabliſhed 186
That ſome have fallen into by the form of writs, ſummoning perſons to appear before the king, rectifyed 486
Mithridates, what reckoned the greateſt danger of war with him 118
Monarchs, who have their right from God and nature 10
Ought to conſult the public good 39
How moſt came to their dignities 140
Are not above the law 550
Monarchy, paternal, over whom exerciſed 19
Whence ſo called 22
For whom beſt 62
No natural propenſity in men and beaſts to it 98, 99
How Ariſtotle commends it 107, 108
Mixed, regulated by law 111. 115. 150. 164
Of Rome, at firſt not abſolute 130
Moſt have ſuffered far greater changes than Rome 143
Macedonian fell all to pieces after the death of Alexander 143. 198
In what ſenſe ſaid to be natural 160
A peaceable one in Peru for twelve generations 200
The French has been full of blood and ſlaughter 209, 210. *vide* 167
The gentleſt more heavy than any commonwealth 213
All ſubject to civil wars ibid.
Well regulated, when its powers are limited by law 248
The juſtice of them eſtabliſhed by common conſent 248. *vide* 85, 86. 95. 166. 189.
Why ſo called 259. *vide* 141. 147
Nothing in the nature and inſtitution of it that obliges nations to bear with its exorbitances 277
What ſort was diſpleaſing to Samuel, and a rejection of God 286
Paternal, overthrown by Filmer 297
Not univerſally evil 301
Where it is regular, kings can neither make nor change laws 339
None eſtabliſhed among us in Julius Caeſar's time 402
Mixed, what the beſt way to ſupport it 463
What has given beginning, growth and continuance to all the mixed ones in the world 493
That not free, which is regulated by a law not to be broken without the guilt of perjury 504
When the mixed monarchies began to be terribly ſhaken 506
Money, Charles VII. of France raiſed it by his own authority ibid.
Moſes and Aaron, the firſt rulers of the people, neither of the eldeſt tribe, nor eldeſt line 26
His admirable gifts 28. 111. 338
Had not the name, or power of a king 71. 102. 275
Gave the people leave to chooſe their own magiſtrates 145
Divided the Hebrews under ſeveral captains 175
Power inſupportable to him 338
His character 249. 340. 474
Whether we ought to conform to his law 408, 409
Multitude, what right it has to change a tyrannical government 13
Compoſed of free men; the power that is placed in them 76
None can be ſeditious till a commonwealth be eſtabliſhed 82
Thoſe that enter into contracts, act according to their own will 83

Where

Where it brings confuſion 178
Is the glory and ſtrength of every prince 231
May have its fears as well as tyrants 247
Confers on the prince all the power he has 264
What is natural thereto in relation to government 268
Murderers wilful, the horns of the altar gave no protection to ſuch 320
Myſteries of ſtate 6

Names, are not eſſential to magiſtrates 447
Of Sovereign Lord, &c. conſiſtent with liberty 452, 453
Nothing of majeſty among the Romans and Grecians to a ſingle perſon 453
There muſt be ſome uſed in all public tranſactions 487
Not to be regarded ſo much as the power 497
Nations, what their rights are 6. 360. 390. 396. 415. 417. 419. 444. 461. 498. 508
That went from Babylon, how many 18. 21, 22. 24, 25. 32. 41. 77. 264
Natural for them to chooſe governors 59. 67. 71. 166. 332. 390
Northern, their governments how inſtituted 80. 256. 428
Free, never conquered but with difficulty 117
Oppreſſed, can never grow wanton 128
None ſafe without valour and ſtrength 131. 419
Foreign, called in by ſome princes to deſtroy their own people 228
Some ſell their children 179
Slight matters ſometimes bring them into confuſion. Inſtances thereof 197, 198
When they are moſt unquiet 207, 208. 223
The wiſeſt have ſet bounds to their princes power, &c. 261. 269, 298
Their liberties are from God and nature 263, 278
Where they have taken the extremeſt courſes 269
Owe nothing to kings till they are kings 290. 367
What ſet limits to their patience 292, 293
What inclines them to ſet up governments 293
When all were governed by tyrants 304
Their ſafety ought not to depend on the will of their princes 346
What are free and what not 386
Thoſe that had no kings had power 401
What ſhews beſt their wiſdom and virtue, or their vices and folly 407
Wherein their failure has been too frequent 410
This divided into ſeven kingdoms 424
None can have a power over any, otherwiſe than de jure, or de facto 445
Obedience due from the whole body, what 458
Their liberties do not riſe from the grants of princes 460
Delight in the peace and juſtice of a good government 461
What the moſt ready way to effect their ruin 464. 484, 485. 492
When obliged to remove the evils they lie under 481
None can have an equal within itſelf 483
One that is powerful cannot recede from its own right ibid.
What king none ever wants that has a ſovereign power 488
What thoſe ought to do that are ſo happy as to have good kings 492
Great ones never ordained by God to be ſlaves 498
Naturalization, Rome was for a general one 173
Negative voice, how far it is ſaid to extend 418
Le roi s'aviſera, what meant by it 454
Nero, the power of the ſtate over him 13. 311
His endeavour to make a woman of a man 49. 57
To tear up virtue by the roots 58. 152. 230
Condemned to be put to death 330
What ſort of vermin he encouraged 156
Set the city on fire 193. 227, 327
Died by the hand of a ſlave 199. 311
His character 341
His madneſs not to be cured but by his death 480
Nimrod the firſt king 17, 18. 23. 274
Uſurped the power over his father, &c. 19. 277
Heir to no man as king 31
Slain by Ninus ibid.
No right can be derived from him 42. 44. 49.
Erected his kingdom contrary to paternal right 263. 401
Noah, bore no image of a king 17. 401
His dividing of Aſia, Europe and Africa among his ſons 30
When he went out of the ark, God gave him a law ſufficient for the ſtate of things at that time 274
None but his right heir can have a title to an univerſal patriarchal right 315. 365
Nobility of Rome extirpated 131
The Roman power chiefly in them after the expulſion of the kings 142
Hold the balance between the king and the commons; when and how weakened 210. 213
Of Arragon's ſaying to their new made king 258
What our anceſtors meant by them 425. 432. 437
The ſtrength of the government placed in them 425. 464
Sometimes called infinita multitudo 428. 431
Knighthood always eſteemed noble 428
In France, etc. of what eſteem ibid.
The preſent titular has no affinity to the antient nobility of England 430
Of Venice and Switzerland what makes them ſo 432
Their virtue and power formerly kept the kings within the limits of the law 463
Many have loſt their eſtates and intereſt now 464
Noli proſequi, ſaid to be annexed to the perſon of the king 489
Norman kings, ſwore to govern by the ſame law as the Saxons had 424. 502
Notions, common, what are agreed to by all mankind 39

Oath of allegiance uſed in the kingdom of Arragon 80
Agreements between prince and people always confirmed by them 192
How kings may be abſolved from them 355
Its force conſiſts in the declared ſenſe of thoſe who give it 356. 459
Scarce any prince broke it but to his ruin 358
All either voluntary or involuntary ibid.
Ought to be performed in reverence to the religion of it 359. 362, 363
What to be done, where the obſervation of it would be grievous 362
How the judges are bound by theirs 392, 393

Wherein that of the crown had not been kept 395
What kings are obliged to do by them 413, 414. 501
How far thoſe of allegiance bind private perſons 460, 461
Obedience, active and paſſive 8. 384
Where due and not due 38. 57. 78. 272. 277. 290. 332, 333. 457
How far a good man will pay it to his prince 217, 218
The effects of its diſcipline among the Romans 235
To higher powers, St. Paul's words favour all ſorts of governments as well as monarchy 316, 317, 318. 332, 333
Why it ſhould be paid 326
Is not due to that which is not law 328, 329, 330. 382
The prince owes it to the laws, as well as the meaneſt ſubject 339, 340
Due to parents, from whence it ariſes 449
Simple and unconditional, to what king we all owe it 488
Object, the only worthy one of man's deſire 64
Obligation ariſing from benefits can only be to thoſe who confer them 43
Of gratitude, to whom due 277
How far the extent of it can be known 290
Henry VIII. owned it lay on him rightly to uſe the power with which he was entruſted 345
Occupation the meaning of the word 190
Offa, vid. Saxons.
Officers, great ones in armies think only of enriching themſelves 239
How their authority and power is to be regulated 333
Ought to have their places for the people's good 414
Frequently put to death by the Athenians, etc. 468
Offices, what fits men for the execution of them 67
Thoſe that buy will make the moſt of them 220
Or muſt be turned out as a ſcandal to the court 221
By what means they have been often obtained 222
Oppreſſion, ſometimes makes nations outrageous 128
Does people ſuch injury, as can never be pardoned 276
Order, when inverted, introduces extreme confuſion 65
Wherein it principally conſiſts 109. v. 64. 75. 77. 82.
The effect of it 111. 116
Good, not wanting in Venice 118
Nor among the Romans 120
Being eſtabliſhed makes good men 180
The beſt ſometimes ſubverted by malice and violence 404
Ordinance, what is blaſphemy to impute to God 41
Civil and human 83
God's general, and the particular ordinance of all ſociety 187
Of God, appointed for the diſtribution of juſtice 194
Several tending to the ſame end 318
Original, no man knows his own 29. 35. 37. 267. 365
Contract 63, 64, 65, 66, 67, 68. 78, 79, 80. 83, 84. 270. 290
Right muſt be regulated according to it 265
Where it would be of no value 268, 269
Of nations almoſt wholly unknown to us 274
Ours is deduced both from the Romans and Saxons 421. 451
Oſtraciſm of the Athenians, no diſhonour, nor accounted as a puniſhment 148
Nothing favor'd ſo much of injuſtice 247
Otho, had the empire given him, by whom 199
Was a ſelf-murderer ibid.
Why he was advanced 202
Outlaw, or lawleſs, often applied to the wicked, but never to the juſt 274

Papal power, the foundation of it 6
The civil diſſenſions in Germany proceeded from thence 335
Pretends to the power of abſolution 355, 356
Her excommunications, bruta fulmina 357
Papiſts, their kindneſs to the proteſtants inſtanced in 494
Parodoxes, many of them true 59
Pardons, ſaid to be only the bounty of the prerogative 394. 489
The meaning of a general one at a coronation 395
Where granted againſt the oath of the crown ibid.
Granted by act of parliament 396
None for a man condemned upon an appeal 489
The king cannot always pardon in caſes of treaſon 490
Parents, how obliged by nature to ſeek their childrens good 272. 275
Parliaments, the inſtitution of them, and for what 81
The ſettling and transferring of crowns lodged in them 85. 140. 267
In France, ſet up to receive appeals from other courts, and to judge ſovereignly, now of little uſe 144. 255.
A free and well regulated one to chooſe miniſters of ſtate 165
Their great power in all the kingdoms that came from the North 252
Declared Henry III. of France fallen from the crown 254
How they may be made uſeleſs 299
England never wanted them 312
The word parliament came from the French, but the power was always in ourſelves 312
Henry VIII. confeſſes them to be the law-makers 345. 416
Doubtful caſes referred to them 346. 395
By writs compel the king to perform the conditions of the great charter 357, 358
Have given the crown to whom they pleaſed 364. 371, 372. 419. 427. 433. 440, 441, 442
Judge of diſputes ariſing from the children of royal marriages 377. 416
Have the ſole power to explain and correct laws 396. 418, 419. 427. 456
Ought of right to be annual 418. 468
From whence they derive their authority 420. 442, 443. 465. 468
Have refuſed to be diſſolved till their work was finiſhed 467
Not impeccable or infallible, but leſs ſubject to error than ſome princes 469, 470. 491

Our

Our lives and liberties depend upon this court 490
What the great Burleigh and Sir Thomas More ſaid of their power 499
If they make unjuſt laws, their poſterity will ſuffer 502
How difficult they are to be bribed ibid.
To have their rolls in their offices, not a mere ceremony 505
What kings have had continual diſputes with them 507
Parties, what certainly divides the nation into them 379
Threaten a national ruin 464
Paſſions, every one has them, few know how to moderate them 201
Put princes upon the moſt unjuſt deſigns 210
The law is without paſſion 346
Patents, began long after the coming of the Normans 426
Pater Patriae, the title thereof conſidered 30. 57
By killing a tyrant how ſaid to become ſo 33, 34. 38. 54
Paternal right, Abraham arrogated none to himſelf 19
Impoſſible to be known 24. 29. 32, 33. 70
All the kingdoms of the earth eſtabliſhed upon it 32
Government of Rome not paternal 37
Cannot be conferred on princes 48. 53, 54. 87
To whom it belongs 30. 73, 74. 296
In what the Hebrews had no regard to it 264. 277
Is a mere fiction 267
Is from nature, and incommunicable 271
Patriarchal right, women and children have it, according to Filmer 2
The abſurdity of it 15, 16. 43. 315. 497
All pretence to it deſtroyed 18. 23. 25. 30. 420
Muſt accrue to every father 20
Either diviſible or indiviſible 22. 32
Patriarchal power different from the regal 16, 17. 59
Peace, there can be none without juſtice 13. 133
Deſirable by a ſtate conſtituted for it 131
Slaviſh 132
What men have in their graves ibid.
What the Spaniards ſettled in the Weſt-Indies ibid.
The name of it given to deſolation 132. 223, 234, 235
The ſad one which France enjoyed for five or ſix ages 209, 210
In Spain to what imputed 212
The terms offered, if good, like to be obſerved; if bad, will ſoon be broken 458
Peers, act for themſelves in their own houſe 500
Pembroke, a late earl of that noble family, his ſaying 204
People, not originally created for kings to reign over them 4
Whether they chooſe governors 12. 59. 63. 79. 87, 88. 94
Scripture-inſtances for the proof of it 102. 257
The choice of the conſtitution is from them 89. 138, 139. 269. 367. 402
Kings receive their right from them 91. 266
How God deals with a people when he intends to exalt them 120
Of Rome, their ſad degeneracy 121
Their right to appeals 125, 126. 130. 138. 153
Acting according to their own will, never ſet up unworthy men, unleſs through miſtake 162
The body of them the public defence 169. 174
None ever well defended but thoſe who fight for themſelves 174
In civil conteſts they equally ſuffer 186
Whether to be judges in their own caſes 192
When generally corrupted, the event is always the erection of a tyrant 196. 216
Their condition where tolerable under very cruel emperors 207
Their hating of cruel princes, and they them 232
Muſt neceſſarily have all the power originally in themſelves 248, 257. 259. 402
Their right of looking into matters of government, etc. 283. 340---343. 386. 468. 481. 483
Can never fall into nonage or dotage 349
Did never part with all their power to kings 355
May govern by themſelves 362
Their whole body not ſubject to the commands of the magiſtrate 457
In their collective body always continue as free as the inward thoughts of a man 459
They certainly periſh who ſuffer themſelves to be oppreſſed 479
That are not free, cannot ſubſtitute delegates 495
Vid. Nations and Multitude.
Perfection, ſimple and relative 407
Perſecution among the firſt Chriſtian emperors 115
Perſia, their kings reigned from the Indies to the Helleſpont 30
The decrees of theſe kings paſſed for laws 90
The juſt ſentence of the princes about Daniel 113
Torn to pieces by the fury of two brothers 147
Under what ill conduct and diſcipline their army was 179
Petition, the haughty Romans condeſcended to join in one with their tribunes to their dictator 453
Pharamond, his race in France, an account of it 371
Pharaoh, his monarchy an act of tyranny 26
Phariſees, their ſuperſtition 382
Philo, to what he imputes the inſtitution of kingly government in Iſrael 101
Philoſophy true, perfectly conformable with what is taught by men divinely inſpired 65
Phocion, of his death 149
Phoenicians ſettling in Africa, brought their liberty with them 450
Plato, a commendation of him 59
His principles of government 63. 66. 71
His opinion, who ought to be advanced above all 66. 102. 249
Plays, the conſequence of them 121. 134. 156. 167
Plebeians elected to the chief magiſtracies 124. 142. 145. 214
Their jealouſy of the patricians 185
Polity, its ſignification 68
Political ſcience abſtruſe 98, 99
Pompey, his cauſe more plauſible, but his deſigns as bad as Caeſar's 226
The firſt ſtep to his ruin was by violating the laws 256
Popular government for what people beſt 62
No where diſpraiſed by Ariſtotle 109
The extent of its conqueſts 111. 115, 135, 136
Of Rome, how ſupported 135, 136

Something of monarchical in them 141
Can never be upheld but by virtue 157. 218
Poſſible, but not eaſily to fall into corruption, etc. 160. 216, 217, 222
Improperly what, and what in the ſtricteſt ſenſe 160
Preſerves peace, and manages war beſt 165, 166
Every man concerned in them 169. 227. 233
States remarkable for peace 177
Excellent men are generally choſen in them 181
What ſeditions are ſeldom ſeen in them 185, 186
How ruined 196
Incourage induſtry 225
Never hurt private perſons but through errors 227. 247
When they began to appear in the world 308
Obedience due to them as well as to monarchies 316
Portugal, who accounted king thereof by the Engliſh court 487, 488
Poverty, no inconvenience in it, if virtue be honoured 218
The miſerable condition of Greece, Italy, etc. 223, 224, 225
When it grew odious in Rome 299
Power (all juſt ſovereign) from the people 54. 80. 82. 92. 210. 257, 258. 267
How he that has it is the miniſter of God 55, 56. 375, 391. 418. 462
Not an advantage but a burden 71, 72
Delegated, to whom referred 79, 80, 81
The root and foundation of it 82
Civil, an human ordinance 83
Of the people ſubject to no rule but their own will 126
Of the Romans after the expulſion of the kings, chiefly in the nobility 142
Naturally of a fierce and aſpiring temper 157, etc.
Sovereign and limited 190. 210
What, in all the kingdoms peopled from the north 252
Moſt ſafe when leaſt envied and hated ibid.
If it has been divided, it may be ſo in infinitum 265
The Roman emperors endeavoured to make their power hereditary 267
The ill effects of unlimited power might cauſe it to be moderated 273
What may be lawfully reſiſted 280
What prince ought to have it, and what not 310
Wilt thou not be afraid of the power? what meant by it 316
Directive and coercive 328, 329. 333
Why it ought to be limited 336
Of the king is the power of the law 345. 411. 418
What requiſite in every ſtate 351
None can be juſt but what is good 399
Over nations muſt either be de jure, or de facto 445
Of the king various according to the conſtitutions of every ſtate 446
Nothing can make that inherent, which is only delegated 468
Reſtrained, when it began to grow inſolent. Inſtances 477
Where it is not univerſal, it is not inherent 489
How that of every county, city and borough of England is regulated 497
What muſt be in thoſe that act by a delegated power 500
Where it is placed by well conſtituted governments 501
Practice cannot declare the greatneſs of authority 283
The conſequence of ſuch a doctrine 284
Of nations to their ſovereigns 452
Prayers and tears the *only* arms of the firſt Chriſtians 305
Preferments, by what means men now riſe to them 222
Given to thoſe that were moſt propenſe to ſlavery 234
Where obtained only by virtue 236
Prerogative of kings, what 2. 66
Of birth 29
Hereditary of dominion 60
All granted by conſent of the whole ſociety 78
What the moſt glorious 290. 413
The utmoſt extent of it, what 348. 413
Only inſtituted to preſerve liberty 387. 408
What is not the gracious bounty of it 396. 507
Who thought whatever could be detracted from the liberty of the nation, would ſerve to advance the prerogative 507
Princes, ordained for the good of the people 38. 58. 60, 61, 62
Ought to be rich in virtue and wiſdom 65, 66. 358
All things vary according to the humour of thoſe that govern 113, 114, 115
Very few of an inflexible virtue 159
Killing one to obtain the crown 208. *vide* 38
Eaſily impoſed on by pretenders 219
By ſetting up their own intereſt become enemies to the public 227, 228, 229, 230. 273
God's vicegerents, *doing* their duty 231
The beſt, by what means drawn out of the way of juſtice 149. 342
For they have their failings 393
Virtuous ones will have virtuous courts 220, 221
Evil ones juſt the contrary 156, 157. 218, 219. 234, 235, 236. 348
How they ſoon loſe their dominions 183, 184. 207
Seek the deſtruction of their beſt ſubjects 208. 232. 317
Some conſider nations, as graziers do their herds and flocks 231
May commit many errors in the beginning of their reigns, to the ruin of themſelves and people. Inſtances 242
The treachery and perjury of ſome 261
What thoſe that govern them inſtigate them to 273
How far their legal power extends 280
Such as are barbarous to their own people, are uſually gentle to the enemies of their country 304
A dangerous thing to arm them with too much force 335
Bound by their oaths and promiſes 358, 359
From whence their power is derived 418
Not ſafe to contradict ſome, though ever ſo juſtly 492
An unlimited one what compared to, and an inſtance of ſuch an one in ſcripture 492
Principes, the extent of the word 14. 51. 74. 331. 421. 429. 431
The Sanhedrim meant hereby 249

Principles of all generous nations before Chriſt's time, what 4
And practices the beſt way to judge men by 156
Priſoners, ought to pay their promiſed ranſom 359
Private perſon, what actions denote a magiſtrate ſo 189. 192
Privernates, their city taken by Plautius the conſul 458
Proceſs, judicial and legal, what 187
Or extrajudicial 194, 195
Proclamations, are at moſt but temporary 491. 496
The danger of their being accounted laws 492, 493, 494
Promiſes, ought juſtly to be performed 359
Even thoſe extorted by fraud. A ſcripture inſtance ibid.
Property, is an appendage to liberty 348
Of our kings, if they be the fountain of it 434
Propoſitions, ought to be univerſally true 11. 18
Filmer's general one found falſe 31. 231
Proſcriptions 120. 122. 128. 132. 151. 198
Proſperity runs naturally into all manner of exceſſes 128. 155
Men have been precipitated into ruin by it 478
Proxies, the way of uſing them 83
Proximity of blood, only regarded in ſome places, whether legitimate or not 203. 444
How right deſcends this way 439, 440
Vide Succeſſion.
Puniſhment of ſupreme magiſtrates in three inſtances 188, 189, 190, 191
To exempt all perſons from it, ſuppoſes they would be guilty of the worſt 194
Where there is no fear of it 219, 220
Future, many do not believe, or not regard, it 276. 314
Of thoſe the prince corrupted to deſert the public cauſe 463
Of thoſe that give princes ill advice 468. 490, 491
Whether it ought to fall upon one or a few guilty perſons, or a whole nation that is innocent 480
To what members of parliament are ſubject 497
In whom the power of it is lodged 500
Pyrrhus ſeems equal to either of the Alexanders 182
His anſwer to him that aſked who ſhould ſucceed him 199

Qualities, no more extraordinary in princes than in others of leſs degree 7
What are requiſite for chief magiſtrates 37. 40. 60
Few kings poſſeſs all that are requiſite 112
What ſubſiſt in a well ordered government 120
The moſt eminent without virtue, reputed vile and odious 125
Quarrels among princes, for the moſt part, begun upon perſonal titles 187. 208, 209, 210
Of princes, where they have been decided by their own ſwords 187. 204
What would make a perpetual ſpring of irreconcileable and mortal quarrels 204
Such as ariſe between the nobles and commons frequently produce good laws 214
Ours with the Dutch 228

Raleigh, ſir Walter, reflected on by Filmer 440, 441
His morals no way exact for a well qualified gentleman 441
Reaſon, is man's nature 163. 287. 337. 341
Univerſal, is that to which all nations owe an equal veneration 329
Rebellion, the greateſt empire of the eaſt overthrown by that of the Mammelucs 128
People driven to it by miſery or deſpair 128, 284, 285
There can be no ſuch as that of a nation againſt its own magiſtrates 457
What it implies ibid.
Is nothing but a renewed war 458. 460
What is compared to witchcraft 460
Regal power, never exerciſed by Abraham 19
The firſt fathers after the flood had not the exerciſe of it 263
Regicides, their abominable ſin 391
Regnum, the ſignification of the word 273
Rehoboam, a ſad account of him 113. 242
His power far from being abſolute 310
Had good counſel, but would not hearken to it 350
Was not the head of his people, and why 474
Religion, always dangerous in the times of the beſt Roman emperors 115
Of the ſame nature with virtue 229
The principles of the popiſh 494
Remedies to government applied according to the neceſſity of circumſtances 123. 144. 477. 478
What children have, againſt their too ſevere parents 275
None to the Hebrews cries and prayers under their miſeries 279
Muſt be tried, how difficult ſoever 479
Which moſt fit to be applied, the beſt time to apply them, and who the propereſt judges 484
Repreſentatives, how, and by whom they came to be deputed 423. 429. 431. 466
Whether the people ſhould judge of their behaviour 468
Republics, *vide* Commonwealths.
Reſignation of one's liberty, what 450
Of the crown 480. *vide* 362, 363
Reſiſtance, in what caſes juſtified 229. 280. 283. 292
Every one has a right to reſiſt what ought not to be done to him 288
Scripture inſtances of reſiſting princes 314
Reſumption of lands, *vide* Grants
Retaliation, where nothing was more juſt 113
Kings under this law as well as people 285, 286
Revenue, how granted to and ſettled on kings 299
Revolts of conquered nations 127
Of ſubjects or allies 128, 198
Of Iſrael in Solomon's time 197. 284
Of Abſalom 283, 284
Of the ten tribes 284
General of a nation cannot be called a rebellion 457
Revolutions, *vide* Authors.
Rewards and puniſhments how to be proportioned 149
Make men ſubſervient to ill deſigns 298, 299
What called the rewards of the vileſt ſervitude 422
Riches, the root of all evil 52, 53. 218, 219
When they become formidable 123
Exhauſted by tribute and rapine 129. 219
Deſired, to gain followers 298
From thence all miſchiefs enſue 299
Right, of thoſe ſovereigns that are limited 120. 192
Proceeds from identity, not from ſimilitude 473

What belongs to every man in all cases 482
Right acquired, how to be obtained 366. 436
How the resignation of it to another operates 435
Hereditary to the dominion of the world, no such thing 44. 70
Great variety in the deduction of it 91
Universal, conferred by God and nature 36
Where it must have been 40. 43. 48. 78
Must be in one, or divided 42, 43
Where it devolves on particular nations 79
Right of choosing infers a right of making a king 86
Created by an explicit act of approbation 86. 95
Naturally belonging to nations, not impaired by the name of supreme given to magistrates 189
Of proceeding judicially or extrajudicially against all that transgress the laws 194. 280
Right of occupancy 37, 38. 53
None can come by conquest 23
None to be deduced from him that had none 23. 42. 54
Where to be acknowledged 38
Of Jack Straw, Wat Tyler, Perkin Warbeck 204
The continuance of an unjust usurpation can never create a right 267
Right of particular nations, how it may subsist 9, 10
Proceeds from the laws of nature 10. 421
Right to crowns, what said to be inseparable from kings 102
Must be either natural, created, or acquired 366
Rochelle, how it came to be taken 237
Rods and axes, before whom, and why carried 154. 189, 190
Roman emperors, who the best and wisest of them 217
How they were set up 308
Empire, destroyed by the loss of her liberty 114. 117, 118, 119, 120. 131, 132. 136. 146
Its extent after the recovery of liberty 119. 131
Tacitus's description of it in its declension 120. 122
It did not fall on a sudden, and why 121
Her delatores, what sort of people 120
Subdued by the most barbarous nations 123. 133. 152
Perpetually decayed when it fell into the hands of one man 129, 130, 131. 250. 296
Its own prudence preserved it 135. 145
Romans had three ways of dealing with conquered nations 127
What raised them above the rest of mankind 169, 170
They only fit to be so, who thought nothing valuable but liberty 458
Rome, whether that government was paternal 37
Overthrew all the monarchies within their reach 37. 119. 135
Its extent at first 75. 130
Wherein she excelled other nations 110. 130
When she met with defeats and ruin 111. 234, 235
All that ever was desirable in her proceeded from liberty 119
Never produced a brave man since the first age of her slavery 121
How it was composed 139
Sought her grandeur by war 142. 173
Her fortune when she became a monarchy 143
None so free from crimes of wilful injustice, nor guilty of so few errors as she 149
Her generosity 149
The mildness of her government for 300 years 151. 153, 154
Struggling for liberty, at last was ruined by the barbarians 152
Not enslaved when *Brutus* was killed 180
Was jealous of Valerius Publicola, and why 185
The peace she had under *Augustus* 198
When filled with blood and ashes 199, 200
Her condition now 224
Suffered more by one *villain*, than by all the defeats received from Hannibal 226
A perpetual spring of brave and valiant men so long as liberty lasted 235
Remained in slavery notwithstanding the slaughter of Caesar 291
Her kings lands, after their expulsion, consecrated to Mars 299
Romulus, slain for aiming at too great an authority 36
How not made king by the people but by God 54, *vide* 402
Laid the right of appeals to the people, as the foundation of his commonwealth 125
How he tempered the fierce humour of the people 406
Rule, there must be one relating to the acquisition and exercise of power 246. 443
The law of nature is that which God has given to things 287
If any had been given by God and nature, it must have been from the beginning, universal and perpetual 404
There is one which kings are obliged to follow 443
None can be so exact as to make provision against all disputes 461
Without it society cannot subsist 482
Men subject to none but that of their own reason 501
Rules, set to distinguish between right and wrong in princes 38
By which men are governed, are named laws 60
Not generally true, if there be any just exceptions against them 81
In politics, some which ought always to be observed 145. 162
Observed in England as to point of succession 204

Sabeans, their kings, though obeyed in all things within their palace, yet might be stoned without it 92
Sacred, not to be accounted so by crimes 194
The style given to the tribunes as well as monarchs 453
Salic law in France 46. 203. 253. 363. 367
Has been in force above 1200 years 254
Not without difficulties sufficient to subvert the polity of that kingdom. Instances thereof 376
Salmasius, his story of bees 99
Salus populi lex est suprema 94. 273. 304. 348. 368 369. 408. 413
To what this safety extends 348
The end for which governments are instituted 351
Samuel was no king, for the Israelites asked one of him 274
What he wrote in a book was not a law to the people but to the king ibid.
Told them their folly and misery in asking a king 279. 286

Not

Not he, but God was rejected by them 301
How he behaved himself as head of the Israelites 474
Sanhedrim instituted by Moses 103. 138
How permanent 104
Always to be advisers of the Jewish kings 250. 319
Where said that kings can do nothing without them 285
For what end constituted judges ibid.
Saul, his first sin by which he fell 101. 104
Opposing God's command he pretended to fulfil it 107
The effects of his various fits of fury 113. 303
His vices never discovered, till he was on the throne 221
Gave the Israelites no law 275
Chosen king in the most democratical way, by lot 277. 280
How he overthrew his own right 281
Not made king by virtue of God's unction only 282
Savoy, the duke, found out thirteen halves to be in every year 469
Saxons, set up kings and deposed them as they pleased 321. 424
The brave saying of king Offa 360, 361. 443. 452
Laws to which all our kings have sworn continue still in force among us 361
Severe asserters of their liberties and laws 403. 421, 435
We chiefly derive our original and manners from them 421. 451
Their assemblies the same in power with our parliaments 423
In their own country scorned all employments but that of the sword 431
By what names they and their general assemblies were called 432
Came hither under Hengist and Horsa 434
How they came to reform their manners, and frame laws 451
Their great wisdom in making laws 502
Schoolmen, an unjust imputation on them 3, 4. 11. 59
To what a nicety they have minced oaths 355, 356
Scientes temporum, who 234
Scipio Africanus, the first that disdained the power of the law 150, 151
Scotland, the mischiefs brought upon it by their contests 212
When and how conquered 238
Their little number of foot beat the king's army at Newburn 240
James the third, Lewis XI's apt scholar in subverting the laws, etc. 252
Many of their kings punished with death, imprisonment and exile 480. 484
Scripture, the places therein relating to government, how best interpreted 15
What it says concerning kings 15. 101. 297
The accounts there given concerning their leaders 102
What it occasionally relates of the Babylonian and other monarchies 200
Declares the necessity of setting bounds to princes 249
Is clear concerning the antiquity of laws 274
Senate, their power 14. 124
Julius Caesar slain in it 114
Set up by the people 130
How exposed and destroyed 132
Condemned Nero to be put to death 330
Killed Romulus 172
Strangers admitted into that of Rome ibid.
Abrogated the power of the Decemviri 189
The best judges 193, 194
And people of Rome not to be bribed 221, 222
Of Rome like to be butchered, and for what 199
Chosen for their virtues 222
Of what constituent parts it may be composed 259
The greatest part of them fell at the battle of Pharsalia 400
Of Sparta and Venice, their great power 419
Senators and servants employed in our public affairs 496
Sedition, popular 8
What 187
What it implies 82. 195
Said to be occasioned by learning 109. 116. 148
None hurtful to Rome till men got above the law 126, 127
From whence it arises 185, 186. 201
Proceeding from malice, is seldom or never seen in popular governments 186
But always detestable 195
One of the greatest that ever was at Rome appeased, and how 196
When justified by God and man 187, 188, 189, 190. 195
Most natural to absolute monarchies 195
From Solomon's time the Jews perpetually vexed with them 197
To what some magistrates give this name 379
Seneff, the battle of it 240
Servants of God, who 55
Raised to high degrees of honour 64, 65
None can be members of a commonwealth 69. 81
Ship-money, *vide* Judges
Shires, far more antient than Alfred's time, and what meant by them 429, 430
Singulis major, universis minor 191. 314
Slaves by nature, who 4. 10. 33. 64. 94. 291
Oftentimes advanced 64. 120, 121. 147. 152. 156. 346
No members of the civil society 127
Absolutely resign themselves to the will of others, and why 164, 165
What states become so to their protector 179
What tributes they are forced to pay 311
What denotes a slave 348. 386, 387
What the true badges of slaves 381
Sad, when the worst of them came to govern kings 507
Will always be cowards, and enemies to their master 508
Slavery, what to be understood by it 10. 22, 23. 28
What it is accompanied with 109. 147
The produce of it 135. 167
The Asiatics underwent the greatest 279
A great part of the curse against Ham and all his posterity 285
None of God's institution 286
What brings it upon any nation, together with its ruin 485

With a miſchief 495
Sloth in princes, the miſerable effects thereof 207
Smyrna, the deſign of taking that fleet 241
Societies, muſt in ſome meaſure diminiſh liberty 21, 22. 25. 60
Subſiſt only by order 64. 77. 481
Civil, compoſed of equals 69
How inſtituted 74. 82
When once entered into, oblige all to the laws thereof 82
Are maintained by mutual contracts 256
Socrates put to death by falſe witneſſes 148
Soil, kings not originally lords of it 433, 434. 450, 451
Soldiers in ſcripture, there were as many to fight for their country, as there were able men to fight 174, 175
Every man is one againſt a public enemy 188
The Grecian in the time of their virtue had no equals 236
The Chriſtian their obligation 383, 384
Soldiers mercenary, overthrow all the laws of a country 157. 256
Often betray their maſters in diſtreſs 168, 169
Several cities in Italy made their wars by them 173
Always want fidelity or courage 179
Sent to the wars by force 239
And other villains ſubdued the Syracuſans, Spartans and Romans 266
Soldiery, accounted a trade 126
Solomon, his idolatry and oppreſſion 113
The bad effect of his magnificence 197
His peaceable reign ibid.
Overthrew the law given by Moſes 284
None will ſay he was a tyrant, yet he was complained of by the people 302
His wiſdom ſurpaſſed that of all the people 469
Sovereigns, impatiently bear competitors 19
Majeſty, the extravagance of it in Auguſtus Caeſar's time 400
Sovereignty, remained in the Roman people 125
To whom the diſpoſal of it muſt perpetually belong 443, 444
Spain, has nothing ſave Milan, but what is come to her by marriage 184
The civil wars there 211, 212
The antient kingdoms of Spain hereditary 363. *vide* 93
When one kingdom comprehended all Spain 369
How the crown was diſpoſed of according to the humour of the people 369, 370
The only title Iſabel had to the crown, was derived from illegitimation 376
How the king may deſerve the name of being head of his people 476
Spaniards, their valour againſt the Carthaginians and Romans, and their overthrow by two leud tyrants 183
The condition to which they have reduced Naples, Sicily, the Weſt-Indies, etc. 225
Spartan kings, what they were ſubject to from their people 90, 91
Together with their power 251
Government in what it conſiſted 138
Preferred by Xenophon to Athens 148
Framed a moſt ſevere diſcipline 173
Never any ſedition againſt their kings 251
Called an ariſtocracy by all the Greek authors 259
Appointed limits to the power of their kings 261. 462. 477
Had no law againſt adultery, and why 272
Spartans, whom they brought from Thebes and Epirus to be their kings 35
Jealous of Lycurgus, and why 185
Had kings before the time of Hercules and Achilles 92
Sacrificed their lives in defence of their country 171
Never heard an enemy's trumpet for 880 years 173
Whether deſcended from the Hebrews, and what power the collective body of the people had over them 251
The poverty and ſimplicity of their kings 298
Their legiſlature was in the people 320
Stability, the effect of good order in that which is good 37. 111, 112
Wherein it conſiſts in man 112
There can be none in abſolute kingdoms 115. 198. 209, 210
Produces ſtrength 116
Not wanting in Venice 118
Nor among the Romans 120
Star-chamber, its juriſdiction aboliſhed 418
States-general, *vide* Holland
Statutes, from whom they receive their authority and force. *Vide* Acts of parliament 491
Stipulations are not perſonal but national 487
Suarez, his ſaying about Adam 69
Subjection lineal, never antiently dreamt of 67
To the power, however acquired 188
And protection are relatives 450, 451
Submiſſion, all manner of it is a reſtraint of liberty 162
The nature and meaſure of it how to be determined 481
Succeſſion, no difference in religion ſaid to be able to divert the right of it 24
The eldeſt brother preferred before the ſon 93
To the next in blood 111
Of blood, the diſeaſe incident to it 180
Laws concerning it 202. 337
By the law of God and nature 202
The various ways of it in ſeveral kingdoms 203
The ſlaughters about it in France 206
Sometimes comes to monſters in cruelty, to children and fools 335
The law gives the rule of it 339. 363. 368
Five different ways of diſpoſing of it 363. 369. 445
In Spain according to the pleaſure of the nobility and people 369
Where in France it is like to be queſtioned, if not overthrown by the houſe of Auſtria 373. 438
Conteſts will ariſe concerning it, how exactly ſoever it be diſpoſed of by law 376
No footſteps of any regular one, either by inheritance or election 403
Of the crown ſettled by parliament 419
Several queſtions ariſing from that which is hereditary 437, 438, 439
Superiority, given to Moſes, who was the younger brother 26
Not in nature, but in virtue 60, 61. 65
Supplications and remonſtrances, where to be uſed 479
Supreme, the extent of the word 190, 191, 192. 269, 270. 389. 418

Power has been enjoyed in the fulleſt extent by ſuch as never had the name of king 333
Where there was a reſervation of this power in the people 340
Sweden, the blood-royal not to marry out of the country, or without the conſent of the ſtates 203
How the inheritance to the crown is ſettled there 364. 443
Election the beſt title to it 366. 429
Their laws but few 409
Who the nobility of that country 329
What Charles Guſtavus told an ambaſſador there 443
Switzers, the thirteen cantons, how long they have enjoyed more peace than any other ſtate of Europe 175, 176
None more free from popular ſeditions 176
The laws of their country read over in a few hours 409
How they uſe their delegates 496, 497
Sword, where left as an inheritance to families 114
The right of appeals overthrown by it 125
He that draws it againſt his prince, ought to throw away the ſcabbard 186
Of juſtice, and of war 187. 309, 310
When the only law that governs 200. 226
A way of killing worſe than that of the ſword 224
To what end ſwords were given to men 292
The uſe of the civil as well as military, equally condemned by the firſt Chriſtians 308, 309
Of power, in all ſorts of governments 316
So to be uſed that nations may live peaceably 319
What meant by this word ibid.
Of juſtice comprehends the legiſlative and executive power ibid.
What the military ſignifies 320, 321
Queſtions about title to crowns often determined this way 376
Where edicts are heſitated at by the parliament at Paris, this power has been made uſe of to compel 505
Sylla, the crimes of his life, and miſeries of his death 216
If not a tyrant, there never was any in the world 226
Reſigns his power, though too late for Rome's recovery ibid.

Tacitus, his ſad account of Rome 58. 120. 122. 135. 151, 152. 167
Speaks of the burden of abſolute power 71
Mentions a ſort of kings uſed by the Romans to keep nations in ſervitude to them 403
When he ſays the Roman laws grew innumerable 409
Tamerlane ſaid he was not a man, but the ſcourge of God, and the plague of mankind 351
Tarquin, the expulſion of him from Rome 11. 402
The firſt that reigned ſine juſſu populi 79
Came in by treachery and murder 119. 130. 145. 192
How the people delivered themſelves from him 140. 164. 214
What followed from his being expelled 185. 291
His counſel concerning the poppies 205
Taxes, upon what accounts to be given, but not to oppreſs the people 299, 300
Tenants, how they now look upon their lords 464
Tenure, none in England owes any but by virtue of a contract, made either by himſelf or his predeceſſors 294
Thoſe of turpitude now aboliſhed ibid.
Of the commons as antient as many of the nobility's 426
Tertullian, ſeveral ſayings out of his Apologetics 308, 309
The deſign of his Apology and treatiſe to Scapula 309
Calls the whole people of Carthage, antiquitate nobiles, nobilitate felices 432
Thaneſtry, the law of it 93
Themiſtocles, his character 148
His envy and ſpite to Ariſtides ibid.
All the citizens of Athens able to bear arms went along with him againſt Xerxes 171
A great and true ſaying of his 217
Tiberius, his reign an uninterrupted ſeries of murders, ſubornations, perjuries, etc. 188, 189. 205
Aſſumed the name of Caeſar without any title 306
His deteſtable luſt deſcribed by Tacitus 331
To what counſellors he only inclined 350
Time, changes nothing 184. 236
Can make nothing lawful and juſt that is not ſo of itſelf 421
Titles, of the firſt kings came not from paternity 31. 264.
Of princes, derived from murders, etc. 38. 40
Some would not have them examined into 38. 188
Hobbes of another opinion 188
Inſtances of ours in particular 440
Of civility have no power to create a right of dominion 74
Diſputes about them by what power to be determined 94, 95. 377, 378
Thought good if the princes could corrupt two or three legions 199
No emperor had a better than what he got by money or violence ibid.
To dominion by whom conferred 264
The fordid ways of attaining them in our days 426
On whom thoſe offices were antiently conferred ibid.
In what juſt ones do conſiſt 437
Several ways to overthrow moſt of them 439
Kings, where inſtanced in to have no other than what was conferred on them by the people 442
Whatever is given to the chief magiſtrate, he can have no other power than what is given him by the people and the laws 447
The moſt ſwelling and auguſt, to whom given 453, 454. 464
Trade, ſubſervient to the end of war 173, 174
Spartans baniſhed all the curious arts that are uſeful to it 173
Trajan, his expedition into the eaſt 131
Bitterly derided for his clemency by Tertullian, and why 327
Whom he bid to uſe the ſword for or againſt him, as he reigned well or ill 445. 500
Treaſon, the principal part of Treſilian's, was his opinion that kings might diſſolve parliaments at their pleaſure 466
Perſons executed as traytors for things done by the king's command 490

It is enacted, that to kill the king is ſo, and to be puniſhed with death 504
Treaties, the king's name always uſed in them, though they are children, or otherwiſe incapable, but yet they oblige them, their ſucceſſors and people 488
If parliaments ſhould make ignominious ones, when the ſeſſion is ended, they muſt bear the burden as much as others 502
Tribes, the ten, why they did not return to the houſe of David 284
Tribunes of the people, their creation 142. 214
Military, with a conſular power 142. 145
How Caeſar corrupted them 143. 157
The moſt dangerous ſedition compoſed by them 185
Threaten the dictator with a great fine 270
Eſteemed ſacred and inviolable 453
Tribute, the antient Jews ſcrupled paying it to the emperors 299
What underſtood by that name 306, 307
We owe none but what we freely give 312
Triumvirate, firſt ſet up by Pompey 226
Truſt, what the greateſt that can be repoſed in men 419
Where that repoſed in kings has been miſemployed 430
How kings are ſaid to diſpenſe with it out of the public ſtock 467
Vide Kings
Truth, no conſequence can deſtroy it 5
Is comprehended by examining principles 6. 401
Is the rule of juſtice 33
Our thoughts ought ever to be guided by it 33. 67
The knowledge of it makes men wiſe 67
Can never be repugnant to juſtice 69
What are real truths grounded on the laws of God and nature 89, 90
Kings ſeldom hear it till they are ruined by lies 243
Can never be made too evident in matters of importance 367
Of abſolute neceſſity to keep the tongue from falſhood 378
The bond of union 380
They that enquire for it, muſt not deny or conceal any thing 436
Can ſeldom or ever conduce to miſchief 471
Tryal, vide Law.
Once acquitted, not queſtioned a ſecond time for the ſame fact 255
In France the king cannot be preſent at any, for no man can be judged if he be 486
Here is ſaid to be coram rege, but it muſt only be according to the law of the land 488
Tumults, where they do no hurt 110
From whence they ariſe 185
What 188
Among the Hebrews 197, 198
Of Rome, their difference from ſome of our battles 215
What reigns are moſt accompanied with them 223. *vide* 208
Turks, all the royal brethren expoſed to be deſtroyed by the Sultan 74
Their greateſt ſtrength conſiſts in children that do not know their own fathers 167
How they came by their ruin 225
When the Germans fled to them for protection 470
Tuſcany, when one of the moſt flouriſhing provinces in the world, now to how low an ebb reduced 459
Tyranny, how it may be weakened 6. 110
Abhorred by the laws of God and man 39, 216. 249
Brought ruin to thoſe ſubjected thereto 60
To impoſe laws arbitrarily 88
Can create no right 91
Is empire gained by violence ibid.
The occaſion of revolts 128
All had their beginning from corruption 157. 196
Introduced by the worſt of men 163. 298
The overthrow of Spain 183
The people miſerable under all 191. 227, 228
Never founded on contracts 278
When it began to become odious 302
Where it is very cruel, a nation cannot ſubſiſt, unleſs it be corrected or ſuppreſſed 342
To ſet it up, is to aboliſh kings 353
Is the death of a ſtate 479
Not the tyrant, but tyranny muſt be deſtroyed 485
Tyranny with a miſchief 495
Tyrants, how they have been accounted 9. 31. 58. 147
The firſt king a cruel one, and called the mighty hunter 18. 112
Conſult only their own greatneſs 39. 71. 143. 267
Obedience ſaid to be due to them from the fifth commandment 57
The difference between lawful kings and them 72. 244
Few go to their graves in peace. 71. 216. 257. 262. 291. 335
Many would reſiſt but cannot 86
Deſtroyed by one another 114. 193. 196. 209. 342. 352, 353
When they reign, the virtuous are unregarded 119
Fear and abhor all men of reputation or virtue 132. 192. 208. 228
All evils come in with them 133
Deſtroyed by their own people 140. 267
The thirty of Athens 149. 189
Said exuiſſe hominem 163. 191
Conſider nations as graziers do their herds 231
A virtuous man could ſcarce die in his bed under them 152
Among the moſt virtuous nations every man might lawfully kill them 188. 245. 267. 353
Tyranni ſine titulo 189. 456
Extrajudicial proceedings muſt be ſometimes againſt them 194
What may be expected from them 231
None ſuch upon Filmer's principles 245. 347, 348, 349, 350, 351
To what exceſſes of cruelty their fear drives them 246
Whom Ariſtotle accounts ſuch 208. 249
Who ſaid to have laid the foundations of tyranny 252
Do many miſchiefs, and ſuffer more 258. 261
Their life miſerable, death infamous, and memory deteſtable 262
Whether the whole courſe of their actions do well ſuit with the ſacred name of father 271, 272, 273. 351, 352
Some in removing them have cut up tyranny by the roots 291
No name for one in any of the oriental tongues 301
He is no more than an evil or corrupted monarch 300, 301. 342
No obedience due to any of them 332, 333

When

When kings are ſaid to degenerate into ſuch 343, 344
Set themſelves up againſt all laws 347
Called ſo, becauſe they have no rights 353
Are the worſt of all God's creatures 399
Speak always in the ſingular number 412

Valour, the Roman was for the good of their country 119, 120
By the excellence of it, the greateſt powers in the world were ſubdued by the Romans 126
Venality, natural to courts 155, 156. 216
Looks always after the beſt bargain 179
Venetians, of what they are compoſed 138. 192
Relying on trade and mercenary ſoldiers, too much are forced to depend on foreign potentates 173, 174
Their too great inclinations to peace, accounted a mortal error in their conſtitution 175
Venice, the dukes, though ſtiled ſupreme, yet are ſo under the power of the law, that divers have been put to death for tranſgreſſing it 190, 191. 462. 477
Their noblemens love for their commonwealth 190, 191
Concerning the council of ten 445
Verdict of juries, in this conſiſts the ſtrength of every judgment 411
Virtue, what 229
What requiſite in kings 28. 33. 39, 40. 60, 61. 64
Gave birth to the Grecian governments 35
Gives a natural preference of one man above another 59. 109
And alſo to children 72, 73
Carries the true marks of ſovereignty 62. 66. 108
Never continues in any race of men 74. 200. 221, 222. 413. 492
Eſſentially neceſſary for preſerving of liberty 111. 122. 236
When perſecuted, few will follow it 120
No way to real honour without it 124. 218. 236
Not to be conſidered when it is departed from 149
When attended with certain deſtruction 151, 152. 230. 235. 317
The Roman, being as a law to themſelves 155
Whoſe will be remembered in all ages 163, 164. 181. 195. 235
Makes as many ſoldiers as there are freemen 169. 235
Overcomes all difficulties 170. 180
And ſtrength make and preſerve conqueſts 184
He that hath virtue and power to ſave a people, can never want a right of doing it 195
Can never long uphold what is vicious in the principle 196, 197
By what means it becomes popular 218
Thoſe hated and feared, who moſt excel in it 221
Hated for its own ſake 229
Expires with loſs of liberty 235, 236
Given where God pleaſes without diſtinction 243
Where it has the advantage, there can be no arbitrary power 262
Once blemiſhed, makes former ſervices forgotten 332
Who encourage it moſt 380
Makes the diſtinction between men, ſimply or relatively conſidered 398
Men are truly ennobled by it only 426
Thoſe that are enemies to her, and fear not God, are afraid of men 471
The virtues of a man die with him 492
Vice, mankind inclined to it 120. 155
The effects of it to a nation 121. 187. 196. 210. 214
May be profitable to private men, but can never be ſo to the government 156
Its deformity when moſt conſpicuous 157
What England has loſt by her vices 158
Thoſe of princes reſult to the damage of the people 213. 229. 232
The vermin that attend vicious courts 234, 235
By what means, and to what end the vices of princes have been fomented 297
Vicious perſons, they will ſubmit to any power that promiſes them impunity 164
Care not what they do, if they can find their account in it 381
Villains, little better than ſlaves, appointed to cultivate the lands, and to other ſervile offices 430
Villainy, where it has been promoted to ſupreme dignity 37. 49. 220
What it inſpires, to attain its end 53. 188. v. 34
Tarquin, hated only for his villainies 193
None, that men of deſperate fortunes will not undertake 196
Supported by committing yet more 219
What Rome ſuffered by it 226
Vitellius thrown into the Tiber 199. 330
His contemptible character 202
Ulpian, his ſaying, that princeps legibus non tenetur, concludes nothing againſt us 414
Union; ſimilitude of intereſts, manners and deſigns, is a link of it 162
United Provinces, ſo ſteady in practice and principle, as hardly to be paralleled in the world 177
How the deputies are uſed there 496
Have had dukes, earls, or marquiſſes 497, 498
Vortigern, the laſt and worſt of the Britiſh kings 425
His favour to the Saxons, and carriage to the Britons 434, 435
Vox populi eſt vox Dei 55
Nothing more natural than to follow the voice of all mankind 89. 480
General conſent is the voice of nature 21, 22. 162
The conſequence of one voice in each ſtate 257
Uſurpation, made the firſt king 18, 19, 41
Grounding pretenſions of right from thence 22. 31. 35, 36. 48. 53, 54. 108
Juſtified 48
The greateſt injury can be done to man 78. 163. 189
What power is ſo 88
By whom bid to ſubmit to it 188
Lawful for an injured people to reſume their own 193
And violence, ſaid to confer an inconteſtible right 245, 271
All is deteſtable and abominable 316
None can deduce any title from it 438
Uſurpers, Athaliah an uſurpreſs 47
Have their root in violence and fraud 83. 141
Seem to be born for plagues to mankind 124
What lawful againſt one, is lawful againſt all, that is, to get rid of them 189
May be ſuppreſſed as enemies and robbers 280
Some that never were conquerors 315
Declare their contempt of all human and divine laws 386

We ought to examine the titles ſo, as to judge of them 439
Uſury, the cruelty of it 123
The mitigation of it compoſed inteſtine quarrels 214

Wantonneſs, from whence it proceeds 128
War and peace, the kings of Sparta never had the power of either 91
Tranſacted by the collected body of the people 103, 104, 105
War, the Hebrew government fitted them for war 138. 175
Of Charles duke of Burgundy with the Swiſs Cantons 176
Better performed in popular governments than in monarchies 181, 182
It is decertatio per vim 188
When the people may engage in it juſtly 188
What to be accounted making of war 281
Differs much from what it was formerly 304
There is ſuch a thing among men as a juſt war, and why 316
Kings of Judah could not make any without the conſent of the ſanhedrim 319
Whether a ſubject may examine if it be juſt or unjuſt 384
Where the cauſe of it is originally juſt, and it proves ſucceſsful; what right the generals have over their enemies 446
The events of it various 456
Wars, civil, only made by members of the civil ſociety 127
None till the times of Marius, Sylla, and Catiline ibid.
Eſteemed the laſt ſtruggles of expiring liberty ibid.
The root of the Romans, what 137
In France 143. 210
From whence they ariſe 185. 212
Pretences for them commonly falſe 187
When they will always be frequent 208
What reigns moſt accompanied with them 208
In Spain 211
More in kingdoms than in commonwealths 214, 223, 226
Not the greateſt evils that befal nations 223
The Romans and Grecians glory in freeing their countries from a civil war 238
In Machiavel's account are a diſeaſe 479
Wards, that court, how the inſtitution of it was perverted 50
Weſtminſter, what its privileges in point of elections 467
Wickedneſs makes men cowards 246
Will, is ever drawn by ſome real good, or the appearance of it 37
The dividing of the world left to the will of man 43, 44
Paſſing for law, the effects of it 115. 245, 246. 266. 501, 502
Where this is the rule, the prince ſets up an intereſt ſeparate from that of his people 262
William the firſt, elected a clero et populo 85. 325
Could inherit nothing 91
On what conditions ſworn to be received 360
In his time our anceſtors were in a low condition 415
Wiſdom, not always annexed to the character of kings 50
When men give teſtimony of it ibid.
Whoſe we ought to admire and imitate 66, 67. 191
The wiſeſt men moſt fit for government 111
Of man imperfect 144
A kind of ability to diſpatch ſome ſort of affairs, is ſo called 245
Of the collected body of the people ſurpaſſes that of a ſingle man 349
Witneſſes falſe encouraged, and called cuſtodes legum 121. 156
No ſufficient defence againſt them, either by the laws of God or man 148
Miniſters of iniquity 183. 232
Countenanced at Rome 224
The beſt tribunals in the world may be miſled by them 247
Iriſh 121
Wittena-gemote, its power, as declared by Camden 424
The power of the nation reſided in them 430. 467
Women, on what account they are excluded in France and Turkey 46. 93. 203. 363, 364. 444
And were by other nations 47
Some do admit them 93. 203
What have governed kings, but ſeldom ſenates or popular aſſemblies 207. 216, 217
What miſchiefs kings have been guilty of to gratify them 493
Work, that of all magiſtrates and governors 55. 61
Worſt men advanced, and moſt ambitious to be ſo 51. 58. 64. 65. 72.
And by whom preferred 160, 161, 162. 165
Stiled fathers of their people 54, 55
Have their tools to execute their deteſtable deſigns 133
Tyranny ſet up by them 163, 164, 165. 231, 232
Engaged in all tumults 198
Moſt frequently have obtained the empire by the worſt means 202
Their principles ought to be deſtroyed 218
Eaſily ſwallow bribes 220. 222
Have moſt power in ſome courts 220, 221
How princes become ſo, as alſo the moſt miſerable 262
Delight in the worſt things 287
Men, whom they had no need to fear 317
What baſe courſes they take to gain the favour of weak and vicious princes 335
What encourages them to murder the beſt of princes 418
Worthy men, in ill times ſuſpected for their virtue 121
Ought to be had in higheſt veneration 405
Wrong, is a breach of the laws, which determine what is right 245
If there be none done, there can be no revenge 245
Where kings can do none 488

Xenophon, why he called Ageſilaus a good and faithful king 90
Conducted the Grecians retreat in deſpite of above four hundred thouſand men, who endeavoured to oppoſe them 116, 117
His opinion concerning tyranny 147
For ariſtocracy 146, 147. 165
Xerxes, his folly in inflicting ſtripes on the ſea 49
His invaſion of Greece 171

Ynca Garcilaſſo of Peru, the fabulous ſtory of him 200, 201
Younger brothers preferred to the elder 26. 95.

Zeal, exceſs of violence is but an ill teſtimony of it 175
When it can never be capable of exceſs 281
Zimri, his title to the ſupreme honour how acquired 33
Zoroaſter, ſuppoſed to be Ham 31

INDEX OF AUTHORS CITED IN THE NOTES.

Addiſon's Remarks on ſeveral parts of Italy 166
Aemylius, Paulus, de Rebus Geſtis Francorum 372
Aetheliſtani Leges 504
Africanus, Leo 83
Agatharchides 92
Aimoini Monachi Hiſtoria Francorum 206
Alberti Deſcriptio Italiae 237
Alexander ab Alexandro 321
Alfordi Annales 97. 322
Alfredi Teſtamentum 322. 427
Ampelii Liber Memorialis 352
Anderſon's Reports 393
Anglia Sacra 322
Annales Fuldenſes 209
——— Thornienſes 323
——— Waverleienſes 358
Annius Viterbenſis 451
Aquinas 328
Ariſtoteles 60, 61, 62. 65. 68. 108. 205. 249. 251. 300. 321. 386. 394. 397, 398. 477
Aſſerii Annales, &c. 321, 322. 325
Auguſtinus 110. 310. 329

Barbeyrac 398
Baronii Annales 323. 368. 374
Baſſompiere, Memoires de 237
Bayle, Dictionaire 375
Beloy, Apologie Catholique ibid.
Beroſi Antiquitates 451
Bizari Senatûs populique Genuenſis Hiſtoria, 351
Blainville's Travels 166. 176
Boccalini 172. 249
Bodinus de Republicâ 374
Bracton 307. 313, 314. 327. 339. 344. 388. 411, 412. 414. 450
Buchanani Rerum Scoticarum Hiſtoria 212. 253. 323. 343. 444. 480

Caeſar de Bello Gallico, &c. 402. 443
Camdeni Britannia 427, 428
Capgravius de Vitâ S. Dunſtani 322, 323
Caſas, Bart. de las 39. 133
Chalons, Hiſtoire de France 206. 209
Chronicles 97. 216. 472, 473
Chronicon Saxonicum 322, 323, 324. 434
Cicero 188. 273. 304. 327. 352. 359. 386. 443. 453
Claudianus 47. 220. 228. 364. 387
Comines, Memoires de Phil. de 176. 213. 440
Concilium Toletanum 368. 375
Cromer de Orig. et Rebus Geſtis Polonorum 448
Cujacius 391
Curtius, Quintus 198

Davila 253
Deuteronomy 15. 47. 86. 175. 248. 250. 297
Diceto, Radulphus de 323
Diogenes Laertius 218
Dion Caſſius 131. 195
Dionyſius Halicarnaſſeus 135. 321
Drummond's Hiſtory of Scotland 212
Dunelmenſis, Simeon 322, 323, 324

Eccleſiaſtes 65. 74
Eccleſiaſticus 242
Echard's Hiſtory of England 365
Edvardi Confeſſoris Leges 430
Edward III. Statutes of 346. 393, 394, 395
Eginhardi Vita Caroli Magni 372
Elienſis Eccleſiae Hiſtoria 324
Elizabeth, Statutes of queen 499
Ethelwerdi Chronicon 321, 322
Euripides 471
Exodus 338

Florus 128
Forteſcue de Laudibus Legum Angliae 339
Fredegarii Scholaſtici Epitome 206
Frontini Stratagemata 150
Furetiere, Dictionaire Univerſel 191. 202

Geddes's Tracts 139
Gemeticenſis, Gulielmus 324
Geneſis 17. 77. 301
Gothofredi Corpus Juris 391
Grotius de Jure Belli 23. 92. 96. 188. 190. 229. 280. 285. 316. 319. 356. 359. 398. 437. 445. 466
Guicciardini 225. 237
Guilhelmi Conqueſtoris Teſtamentum 324

Henry III. ſtatute of 358
Henry VII. ſtatute of 455
Herbert's Life of Henry VIII. 345. 416. 499
Herodotus 49
Heylyn's Coſmography 134
Hobbes 188. 355. 378
Hooker 87. 89. 504
Horatius 41. 50. 136. 218
Hotomanni Franco-Gallia 253. 255
Hovenden 84. 321, 322, 323
Huntindonienſis, Henricus 84, 85. 322, 323, 324

James I. his Works 343. 503, 504
Jeremiah 250. 285
Ingulphus 84, 85. 323, 324. 430
John, St. 56
Jornandes 93
Joſephus 101. 104. 246. 250
Joſhua 103, 104. 359
Iſaiah 471
Iſocrates 352
Judges 102. 105. 196. 353. 448. 472
Juſtiniani Codex 391
Juvenalis 35. 71. 121. 137. 219. 228. 299. 378

Kings 81. 283. 285. 289. 295. 320. 352
Knolles's Turkiſh Hiſtory 167

Laetus, Pomponius 217
Lambard de priſcis Anglorum Legibus 97. 430. 433. 504.
Livius, I. 46. 51. 74. 79. 124, 125. 127, 128. 130. 142. 149, 150. 153, 154. 164. 169, 170, 171, 172. 183. 186. 196. 215. 235. 269, 270. 321. 337. 340. 402. 406. 415. 443. 453. 458. 481
Lucanus 19. 57. 127. 157. 179. 202. 292. 472.
Luke, St. 382

Machiavel 110. 225. 243. 350. 406
Magna Charta 340. 345. 411
Maimonides 251. 411
Malmeſburienſis, Willielmus 84. 228. 321, 322, 323, 324. 427. 433, 434, 435
Mariana 93. 261. 368, 369, 370. 376. 448
Melvil's Memoirs 212
Menochius 320
Mezeray, Hiſtoire de France 206. 209. 253. 372, 373
Milles's Catalogue of Honour 354
Moleſworth's Account of Denmark 159

Nepos, Cornelius 173. 189
Numbers 103

Olahi Atila 351
Oſberni Vita Odonis 322, 323

INDEX OF AUTHORS CITED IN THE NOTES

Parisiensis, Matthaeus 85. 321. 324. 357. 361. 443
Parker de Antiquitate Britannicae Ecclesiae 433
Paterculus 359
Paruta, Paolo 237
Perez, Antonio de 80
Peter, St. 318
Philostratus 386
Photius 92
Pictavensis, Guilielmus 324
Plato 63. 65, 66
Plutarchus 91. 114. 117, 118. 135. 148. 171. 189. 199. 217. 228. 230. 252. 257. 266. 270. 320. 337. 352. 359. 386
Polyaenus 359
Procopius 183
Proverbs 469
Prynne on the loyalty of God's true Saints 354
Psalms 295. 327. 360
Puffendorf 359
Purchas's Pilgrim 133. 201

Raleigh's History of the World, &c. 284. 441
Richerius de Rebus Turcarum 350
Rochefoucault 371
Romans, Epistle to the 55. 72. 317
Rudburni Historia Wintoniensis 322
Rymeri Foedera 377

Saavedra, Corona Gothica 93. 368. 448
Sallustius 137. 161. 443. 453
Salmasius 39
Samuel 81, 82. 104. 197. 251. 275. 281, 282, 283. 286. 303. 460
Sandoval, Hist. del. Emp. Carlos V. 498
Selden de Synedriis 251
—— Titles of Honor 374. 430
—— Janus 451
Seneca 34. 53. 110. 159. 329. 471
Serres, Histoire de France 206, 207. 209. 371. 373. 396
Sigonii Hist. de Regno Italiae 134
Silius Italicus 46
Spelmanni Concilia 84. 97. 321. 323. 427. 429. 433
———— Glossarium 504
Suetonius 49. 131. 133. 193. 199. 330. 337. 359. 389. 453
Sully, Memoires de 116

Tacitus 58, 68. 71. 81. 110. 120, 121, 122. 133. 135. 137. 143. 152. 154. 156. 167. 193. 199. 205. 208. 226. 228. 23[illegible]. 234. 235. 244. 246. 252. 276. 317. 331, 332. 336. 337. 386. 400. 403. 409. 421, 422. 425. 430. 448. 479
Tertullianus 224. 308, 309. 327, 328, 329. 404. 432. 449

Thuanus 190, 191, 253. 370. 375. 499
Timothy 55. 328
Titus 326
Traité des Droits de la Reine, &c. 255
Turonensis, Gregorius 206, 207
Tyrrel's History of England 358

Valerius Maximus 46. 170. 196. 218
Vega Garcilasso de la 300
Vergilius, Polydorus 84. 321, 322, 323, 324
Victor, Aurelius 131. 149, 150. 154. 199. 445
Virgilius 169. 432
Vitalis, Ordericus 324
Ulpianus, 391
Universal History 159
Voltaire 371

Walsinghami Historia Angliae 354. 377
Westmonasteriensis, Matthaeus 84, 85. 228. 321, 322, 323, 324, 325. 425. 433, 434, 435
Wigornensis, Florentius 322, 323, 324
William and Mary, statute of 354
Wright's Travels 132

Xenophon 90. 189. 352
Xiphilinus 445

ADDENDA ET CORRIGENDA.

Page 37. Anarchiae fautores.] Tertia doctrina seditiosa ab eâdem radice orta est, "tyrannicidium esse licitum." Imò hodie à nonnullis theologis, et olim ab omnibus sophistis, Platone, Aristotele, Cicerone, Seneca, Plutarcho, caeterisque Graeciae, et Romanae anarchiae fautoribus, non modò licitum, sed etiam maximâ laude dignum existimatum est. Hobbes de Cive, c. 12.

Page 84, to the note concerning the election of Ethelwolf add, "Quùm Egbertus pater fatis concessisset consensus publicus Ethelvuolphum filium in regem dari petiit." Balaei Script. Brit. Catal. cent. 2, c. 20.

Page 93, for Mahommed, read Mohammed.

Page 108, for νοϑν, read νοϑν, and for νοϑς, read νϑς.

Page 139, for justiciar, read justicia.

Page 154, instead of "condemning Antistius Sosianus in the reign of Nero;" former editions have, "condemning Nero;" and this reading is very right. Sydney alludes to the same fact, p. 330. The alteration in this edition was owing to an improper reference, in the margin of the third edition, to the passage in Tacitus, concerning Antistius, which is quoted in the notes. These examples, however are equally pertinent, and the alteration is of no moment.

Page 189, for "mulabat," read "multabat."

Page 204, instead of "coal-staff," read "cowl-staff." Cowl is an old or provincial word, signifying a tub with two ears, used for carrying water, etc. The cowl-staff is the pole by which the vessel is suspended between two men. In all the editions of Sydney's Discourses, this word is erroneously printed, "coal-staff."

Page 224, to the quotation from Tertullian add, Homicidii festinatio est prohibere nasci. Tert. Apol. § 8.

Page 255, "regne" for "reine."

Page 370, for "imperio," read "imperium."

Page 418. l. 26. for "it is more," read "it is no more."

LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THURLOE'S STATE PAPERS.

LETTERS OF ALGERNON SYDNEY,

TAKEN FROM THURLOE'S STATE PAPERS

COLONEL ALGERNON SYDNEY TO MYNHEER BEVERNING

My Lord, Hague, Auguſt 8, 1654. [N. S.]

I will not undertake to write any news to you, knowing that you are informed from a better hand; but I will take the boldneſs to adviſe you this, and upon good conſiderations, that in caſe your friends here do not ſecure themſelves better than they do, they will run the hazard to repent themſelves ere long. This by the bye. I have ſpoken with my lord de Witt, but very little yet in particular. My lord of Opdam hath done me the honour to come and ſee me at my lodging *.

COLONEL ALGERNON SYDNEY TO THE EARL OF LEICESTER

My Lord,

The ſtates of Holland have put forth a book in juſtification of the article concerning the prince of Orange, and in anſwer to the provinces complaints. It is yet but in Dutch, but will ſuddenly be in other languages. The ſtates of Holland go on vigorouſly with their deſigns; and it is thought they will ſuddenly ſilence the other grumbling provinces. The ſtates of Holland carried the book to the ſtates general, and read it to them. Many rant here; others diſavow what is done; but what more they will do, I cannot tell †.

Hague, Auguſt 14, 1654. [N. S.]

COLONEL ALGERNON SYDNEY TO MR. SPENCER

Sir, Hague, October 16, 1654. [N. S.]

We have been of late alarmed by two dangerous elements, fire and water. The other day the town of Delft was almoſt blown up by a magazine, that took fire. It was ſuch a terrible blow, that it ſhook the Hague. Since, by ſtorm and rain, we have been in no leſs danger. Some take upon them to tell us, that theſe ſigns are very ominous to the province of Holland. Above two hundred houſes were blown up: it made the very Hague ſhake again.

This

* Thurloe's State Papers, vol. ii. p. 501. † Vol. ii. p. 522.

This ſad accident happened through the careleſneſs of one that hath the looking to the magazine. The commiſſioners went at ten o'clock into the magazine, and about eleven it was fired *.

THE ENGLISH PLENIPOTENTIARIES IN THE SOUND TO THE PRESIDENT OF THE COUNCIL OF STATE

My Lord,

We are now approaching the Scaw, having by leſs favourable winds been detained theſe eight days at ſea. By an Hamburgher, whom we juſt now met coming from the Sound, we receive intelligence, that our fleet, with ſome Swedes, lie at preſent between Cronenburgh and Copenhagen; which city hath received ſome relief from merchant-men and victuallers; but according to the information, (which he confidently in this particular gives us) hath as yet no ſoldiers put into it. We are, it ſeems, looked for at the Sound, where a certain number of commiſſioners beſides are expected from Holland, till the coming up whereof there is a ceſſation between the fleets. My lord, we could not omit communicating this, being careful of uſing all opportunities to approve ourſelves,

Your lordſhip's humble ſervants,

From aboard the Langport,
12 leagues from the Scaw,
July 16, 1659.

Alg. Sydney.
Rob. Honywood.
Tho. Boone.

The Dutch fleet lies below Copenhagen †.

THE ENGLISH PLENIPOTENTIARIES IN THE SOUND TO THE PRESIDENT OF THE COUNCIL

My Lord,

Being arrived here the 21ſt of this month, we ſhould, before this time, have given your lordſhip an account of ourſelves, and ſo much as we could know of our buſineſs; but being promiſed every day, that the king of Sweden would be here either the ſame or the next, and that we might have audience the firſt hour after his coming; we did ſtay the diſpatch of the ketch, until that were paſſed, that we might be more full in our relation. But we are kept in uncertainty; and though we ſent a gentleman yeſterday to Fredericſburgh with a copy of our credentials, to be ſhewed to the ſecretary of ſtate, with our deſire for a ſpeedy audience, he is not yet returned. The moſt that we can at preſent ſay, is, that having been on board your fleet, we find it in a good condition of ſtrength; but ſickneſs doth grow amongſt them, and the

* Vol. ii. p. 649.

† Vol. vii. p. 699.

the victual doth grow ſhort, which we do endeavour to ſupply by providing the particulars mentioned in the incloſed note, which, amounting unto about fifteen hundred pounds, over and above what is already provided, or ordered to be paid, we deſire your lordſhip to cauſe to be paid accordingly. We have received from Mr. Downing a copy of an agreement made at the Hague the $\frac{1}{2}\frac{4}{4}$th inſtant; and though it is not authentically ſigned, we do proceed upon it with the Holland miniſters without any diſpute, finding it ſuitable unto our inſtructions; ſo that even without it we might have concluded with them the matter of it. There was ſome diſcourſe between them and us of the "quindecim dies continuos," and when they ſhould begin; which is now agreed on all ſides, that it ſhall be "quindecim dies poſt tractatum initum;" and that in the mean time we ſhould apply ourſelves to both the kings, to perſuade them unto a ceſſation of arms, for that time; and if that be refuſed, the Hollanders do engage themſelves to compel the king of Denmark. And we have promiſed, that if the refuſe be on the king of Sweden's ſide, we will give them full liberty to proceed againſt him, as they ſhall think fit, until he doth give his aſſent; which they like very well, knowing what power they have over him, in caſe we deſiſt from aſſiſting him. On the 24th of this month we had information, that Opdam and de Ruyter had left their ſtation near Copenhagen, taken on board the 4000 men formerly brought out of Holland, joined themſelves with Bielk the Daniſh admiral, gathered together about 100 barks and boats of ſeveral ſorts, fit for the tranſportation of horſe and foot, and ſet ſail (as we thought) for Jutland or Holſtein, to tranſport the Brandenburghers. Upon conference with the two Holland miniſters that are here, upon the ſame day, and diſcourſing of the laſt agreement at the Hague, Mr. Slingerland did propoſe a ceſſation for the fifteen days of the treaty. We, by way of queſtion, propoſed, whether not only that was neceſſary, but that we, who were employed by the two commonwealths, ought not to take care to prevent any miſchief, that might fall out between the two fleets, before ſuch time as we could obtain the king's conſent to the ceſſation, eſpecially the Holland fleet having ſet ſail ſo provided, that it was probable they went upon ſome great expedition? and whether it were not adviſeable, that we ſhould ſtop all ſuch proceedings, by undertaking either of us for the fleet of our own nation, (they ſhewing, that they had ſufficient power to engage their own) that they ſhould not attempt any act of hoſtility during the time we were for preparing for the treaty? They offered to undertake for de Ruyter and his fleet, only leaving Opdam free; which we not accepting, parted without any concluſion, and thought it moſt for the commonwealth's ſervice to prepare our fleet to follow the Dutch and Danes, and obſerve their motions. The next day we had a meſſage from the two Dutch miniſters here, that they had received notice from their collegues at Copenhagen, that upon the receipt of the agreement at the Hague, they had ſtopped Opdam and de Ruyter's motions for the preſent; and that, if we would have a conference with

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all the miniſters of their ſtate, to conclude that buſineſs, they would go with us to a place half-way betwixt this and Copenhagen, and ſend to their collegues to meet us there; unto which we readily aſſented. And to avoid the diſpute for place, which might happen with the French ambaſſador, who was thought neceſſary to be there, we deſired to entertain them in a frigate, that was brought to lie near that place; which they taking very well, we all met there; and agreeing unanimouſly to prevent all action, that might diſturb the treaty, and undertaking each for the fleet belonging to their own commonwealth, and that they ſhould attempt nothing againſt one another, or either of the two kings, whilſt we were preparing for the treaty, the Dutch did immediately diſpatch orders to their commanders to give them notice of it, and accordingly to ceaſe from all acts of hoſtility. The Dutch miniſters have very fully aſſured us, that if the king of Denmark will not aſſent to the ceſſation or the peace to be concluded, they will uſe their power to force him, according to the contents of the late agreement. And though our inſtructions are large enough to ſhew us in what manner we ſhould proceed with the king of Sweden, in caſe he ſhould refuſe, as alſo in relation to the ſaid agreement; yet we deſire your lordſhip, that if this new ſtate of things has given you any other thoughts than ſuch as are expreſſed in our inſtructions, your lordſhip will be pleaſed to let us know them, that they may be a further guide unto us, and we may in all things conform ourſelves unto them. We have alſo a further ſcruple upon which we deſire to know your lordſhip's pleaſure; which is, in what manner we ſhould proceed, in caſe neither of the kings will aſſent unto the peace; for we think, that probably will be the caſe, the king of Denmark not only inſiſting upon a general peace, and refuſing any with the excluſion of the Brandenburgers and Imperialiſts; but, according to the beſt information we can have from ſir Philip Meadowe and others, we have reaſon to doubt the king of Sweden will be very unwilling to aſſent unto a peace, according to the ſaid agreement at the Hague, unleſs his peace may be alſo made with the emperor, whoſe power he is not able to withſtand, unleſs England and France join in aſſiſting him; and Pomerania being ſo waſted, that there is no ſubſiſtence for his army there, he will be extremely ſtraitened how to provide quarters for his army this winter; and ſums up his deſires in theſe few words, either that we ſhould make a general peace, that he may diſband his army, or ſuffer him to ſtay here, where he may maintain it; by which your lordſhip may ſee, how different the inclinations of that king are from what is ordinarily repreſented in England. We think, the relation of his force at land and ſea is not more truly repreſented. Thoſe troops of his, that we have ſeen, are extremely weak, ill armed, ill mounted, few in number, and in all reſpects in an ill condition; and we are informed, his others are not better; but yet the ſtrength in Copenhagen conſiſting of the moſt part of burghers, (who are only to defend walls) they well enough keep them in. His ſea-force is not more conſiderable, and the ſtate of it is ſo well known

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unto the Dutch, that they do not apprehend the Engliſh ſhould receive any conſiderable aſſiſtance from them, which, we believe, doth increaſe their confidence. And we do humbly offer it unto your lordſhip, whether it would not be a great help to us in our treaty, and much advance the deſired peace, if you would be pleaſed to ſend vice-admiral Lawſon, with an addition of ſix or eight good ſhips, which we leave unto your lordſhip's conſideration. We think ourſelves obliged to repreſent unto your lordſhip, that ſir Philip Meadowe is not willing to continue here this winter, the condition of his health not at all agreeing with this climate in that ſeaſon, eſpecially being incommodated with a ſhot in his hand, which he received in Portugal, his own affairs alſo requiring his return into England after his long abſence; upon which conſiderations only he doth deſire your lordſhip to diſcharge him by that time, and in the mean he doth offer to ſerve the commonwealth to the utmoſt of his power, or to obey your lordſhip's command, if you find it for your ſervice, after his return, to employ him in any other place. The gentleman we ſent to Fredericſburg is now returned with his anſwer from the king, that lodgings are provided for us there, and that if we will come thither to-morrow, we ſhall have audience immediately, or the next day, at our choice. We incline to the moſt ſpeedy, and have therefore agreed with his majeſty's officers here, that it ſhall be to-morrow in the afternoon. The manner of our reception will be, that two ſenators will meet us half a mile from the place, and bring us firſt to our own lodgings, and from thence to the king; which, before the making up of our packet, we thought neceſſary to be ſignified unto your lordſhip, by,

My lord,

Your lordſhip's moſt humble and faithful ſervants,

E. Montagu.
Alg. Sydney.
Rob. Honywood.
Tho. Boone.

Elſenore,
July 29, 1659.

We have received the packet, that was ſent with the Forreſter frigate, and ſhall conform ourſelves unto the directions contained in it *.

THE ENGLISH COMMISSIONERS IN THE SOUND TO THE KING OF SWEDEN

Sereniſſime potentiſſimeque Rex,

Incertam valetudinem, quâ etiamnum utitur veſtra majeſtas, non ſine dolore accepimus, ſenſuque eo graviore, quo majorem ſpem majeſtatem veſtram de officiis ſtudioque noſtro certiorem faciendi animo praeceperamus; quin & coràm exponendi, quo in loco ſint rationes illae majeſtati veſtrae cum republicâ communes. Muneri autem noſtro ne quâ deeſſemus, majeſtatem veſtram rurſus orandam duximus, ut renuntietur nobis, utrum

* Vol. vii. p 708.

(quo communius pax inſtauretur) foederis Roſchildiani conditiones dignetur accipere, ſive id non videatur, quaenam illa ſint, quae malit adjici, minui, aut mutari: chartam ſiquidem eo ſpectantem à rege Daniae dudùm impetravimus, quaſi unicam rationem, quâ inter majeſtates veſtras orta diſſidia brevi quindecim dierum ſpatio componantur (id quod non ita pridem majeſtatis veſtrae commiſſariis fuſius explicuimus): in tantillum temporis claſſis noſtrae rationes nos compulerunt, quae nequaquam poterit diutius iſthic commorari. Quod ſi interea temporis ſeu opera mediatoria ſeu naves noſtrae majeſtati veſtrae ex uſu eſſe poſſint, nos exhibebimus,

Sereniſſime ac potentiſſime Rex,

Majeſtati veſtrae addictiſſimos, atque ejuſdem obſequentiſſimos,

Alg. Sydney.

Fridericiburgi, $\frac{9}{19}$ Auguſti 1659. R. Honywood.

Sereniſſimo ac potentiſſimo Suecorum regi *.

FROM THE ENGLISH COMMISSIONERS IN THE SOUND

My Lord,

When we were ready to go to our audience from the king of Sweden, which, by our laſt diſpatch of the twenty ninth of July, we informed your lordſhip we expected the next day, we received a meſſage from his majeſty, whereby it was deferred until the thirty firſt, with a promiſe we ſhould be heard publicly in the morning, and privately in the afternoon.

The public audience paſſed in the ordinary ceremony, we ſpeaking in Engliſh, and delivering what we had ſaid in Engliſh in Latin, the king anſwered immediately in the Swediſh language, and Mr. Berkman related in Engliſh what he had ſaid. After the ſecond or third ſpeech of that kind, the king did in French civilly excuſe himſelf for the ill entertainment we had received, the diſorders of the time and ſtraitneſs of the place not admitting of better. Our anſwer was then in French; but nothing paſſed more than ordinary civilities. In the afternoon we were admitted to a private audience, wherein in the French we did expreſs the cauſe of our coming, propoſed a treaty between him and the king of Denmark, and the nomination of time, place, commiſſaries, and granting of ſafe conducts and a ceſſation during the time of, and our preparations unto the treaty. Unto which he anſwered in the ſame language, that he had by his ſeveral declarations ſufficiently evidenced his deſires of peace; and that he did leave it to the Engliſh to chooſe whether it ſhould be general or particular with Denmark. Then he made a very large narrative of all the ſtraits, in which he had found himſelf ever ſince he came to the crown, the multitude of enemies wherewith he was oppreſſed, his own deſires of peace, both for the neceſſity of his affairs, and infirmities of his body; but that he could not nominate commiſſaries, time, or place, nor grant ſafe conduct or ceſſation, until he knew whether the king

* Vol. vii. p. 724.

of Denmark would treat; that he did not comprehend his allies. And concerning the ceſſation, he added, that the other things being once accorded, he would grant that alſo; but upon ſuch conditions, as neither wood, victuals, or other neceſſaries that they wanted in Copenhagen, ſhould be brought into that town during that time. With this anſwer we returned to Elſenore the ſame day. The firſt of Auguſt we had a conference with the Holland ambaſſadors there concerning our common affairs, and reſolved all together to go to Copenhagen the ſecond of Auguſt, to propoſe the ſame thing to the king of Denmark. Public audience was given to us on the third in the morning, which paſſed in the ſame manner as that of Sweden; only the king's anſwer was firſt made unto us by Peter Rytz (who was formerly ambaſſador in England) in the Dutch tongue, and then in Latin. In the afternoon we had a private audience with the king, having with him the reichs-hofmeiſter Rytz, and three other ſenators. We propoſed the ſame points concerning peace, treaty, and ceſſation. The anſwer was delivered by the reichs-hofmeiſter in French, (as our diſcourſe had been) that the peace of Roſchild having been broken by the king of Sweden, contrary to his faith given, without any provocation, the countries waſted, king's houſes pillaged, others deſtroyed, and the king forced to ſhut himſelf up in one city, which being unprovided of all things neceſſary for defence and unfortified, had been hitherto maintained by a particular bleſſing of God, protecting an oppreſſed king and an innocent people; and that the ſaid king had ever been deſirous of peace, and forced by ſo many urging neceſſities to call the emperor, king of Poland, and duke of Brandenburgh to his aſſiſtance, he did deſire, that they might be alſo comprehended in the treaty. That being by us impoſſible to be effected in the ſhort time, that was allotted to us, and that our fleet could ſtay here, we preſſed him for a particular peace. Some diſcourſes paſſed on the ſame ſubject on both ſides, and ſo we parted, giving the king time to conſider of it until the next day. We then returning, the reichs-hofmeiſter told us, that the king, finding himſelf more nearly allied to the duke of Brandenburg than any of his other allies, had diſpatched a meſſenger unto him, to know whether he deſired to be comprehended in the treaty or not; and that having done all that was in his power for him, and to perſuade him, if he did refuſe, he would proceed to treat with Sweden without him. Our buſineſs not admitting ſo much delay as the return of the meſſenger, we preſſed for an immediate and particular treaty upon the grounds of that of Roſchild. The hofmeiſter anſwered, That the treaty of Roſchild did injoin the king of Sweden to deliver into the hands of the king of Denmark the provinces of Jutland and Holſtein, which he did doubt would be hard for the Swede to do; and that if the Dane ſhould treat without his allies, and peace ſhould not enſue upon it, he ſhould be deſerted by them, and his condition made much worſe than it is at preſent. We replied, that the treaty of Roſchild could intend only, that the king of

Sweden ſhould not detain thoſe provinces from the Dane, which he now eaſily performed; not having a man in them; and that they being in the hands of the king of Denmark's allies, we could not but judge them to be in his own, not doubting but that his majeſty had choſen ſuch to call to his aſſiſtance, as would conſider his intereſt, and be guided by his directions.

And theſe difficulties being thus removed, we did deſire to know of his majeſty, whether he did like the conditions of the treaty of Roſchild; and if he did not, he would nominate his commiſſioners, agree upon the preliminaries, and give them inſtructions upon thoſe points, that he did deſire ſhould be added, diminiſhed, or changed; and we would endeavour by our mediation to obtain for his majeſty ſo much as ſhould appear to be juſt. The king and ſenators ſcrupled much to enter into a treaty with the Swede, affirming poſitively, that as ſoon as that was known, all his allies would turn againſt him; but offered to treat with us, who might go between, hear the pretences of both parties, and terminate the differences between them. We finding this way ſuitable to our inſtructions, and the moſt probable to put a ſpeedy end to the buſineſs, the diſputes of titles, precedence, time, place, powers, perſons, and great animoſities between the parties, (which were likely to take up much more time than was allotted to us for the concluſion of the whole) being thereby avoided, we readily accepted that propoſition; and that we might bring it to effect, we deſired to know, what the king deſired ſhould be altered of the Roſchild treaty, which we promiſed the next day. And on the fifth in the morning, the reichs-hofmeiſter, and five other ſenators, which were then in town, came to our lodgings, and made us a diſcourſe, of which the ſubject is contained in the firſt of theſe incloſed papers; and in the afternoon Peter Rytz brought it us in writing. On the ſixth we had another conference with the Holland ambaſſadors, and they afterwards had one with the Daniſh ſenators; upon which Peter Rytz brought in this ſecond paper, and in diſcourſe told us much of the weakneſs of his maſter, the cruelty and unfaithfulneſs of the Swede, their dependence upon the mediators, principally upon the Engliſh, for making the peace, wherein he did deſire us to conſider, not only the juſt cauſe of an oppreſſed prince, but our own intereſt, which was nearly concerned in maintaining Denmark, to be a balance to the power of Sweden; which being once taken away, and he getting the entire maſtery of the Sound and the Baltic ſea, would prove troubleſome to all his neighbours, which ſhould have occaſion to trade there. Unto which we returned no other anſwer, than that it was not our work to oppreſs the king of Denmark, but rather to make ſuch a peace for him, as might conſiſt with juſtice, and the preſent condition of the affairs of thoſe ſtates intereſted in this quarrel, and the commerce in thoſe ſeas; and that we would omit no care and diligence in uſing ſuch means as were probable to effect it. The next day, being the ſeventh, we returned to Elſenore. The eighth

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in the morning, two of us, viz. Honywood and Sydney, went to Fredericſburg, and immediately deſired audience of the king of Sweden, who excuſed himſelf for not giving a perſonal audience, by reaſon of an indiſpoſition, into which he was lately fallen; but would immediately appoint two ſenators to hear whatſoever we had to propoſe; which we accepted, though we knew well enough, that that was only a feigned pretence, upon an ill-humour, into which he was grown, upon a diſlike of the agreement at the Hague, our communication with the Holland miniſters, and his opinion, that we had an intention to oblige him to a peace, that he did not like. At the place appointed, we found two ſenators, two ſecretaries, and two other clerks; who whilſt we were intent in diſcourſe, not regarding them, wrote all that we ſaid, which (though we thought a very unhandſome way of proceeding) we did not complain of; but took care not to ſay any thing, that could give them an advantage. We propoſed the treaty to be managed between both parties by the mediators, without loſing time in frivolous diſputes upon the preliminaries and other points ſubject to raiſe cavils; but that if the king of Sweden would deliver us in writing his acceptance of the Roſchild treaty, or his exceptions unto it, we would communicate it with the other mediators, and endeavour to procure ſuch a peace for his majeſty, as was ſuitable to the rules of honour and juſtice, adding thereunto many expreſſions of civility to his majeſty from the commonwealth, and from ourſelves.

They argue much againſt this way of proceeding, and we for it, as the only one, that could poſſibly bring the buſineſs to effect in the time, that our fleet could ſtay here. They promiſed us to make report to his majeſty, and bring us a ſpeedy anſwer. In the evening a gentleman came from them, to know at what time the next day, being the ninth, they might bring an anſwer to what we had propoſed; we named eight in the morning. The two ſenators and two ſecretaries came accordingly, and refuſed to treat otherwiſe than by commiſſaries; we knowing that to be only a trick to delay the peace, until the Engliſh and Holland fleets ſhould be forced to retire, did not accept of that, but ſent to deſire again audience from the king. He returned the like anſwer as the day before, offering alſo to appoint commiſſaries to hear whatſoever we ſhould impart; but we finding that ending in nothing but loſs of time in vain talking, having communicated our inſtructions to the Holland ambaſſadors, (who came with us, and had been uſed in the ſame manner) ſent his majeſty this incloſed letter, and immediately returned hither. This day we ſpent in making this diſpatch, and framing a project of a treaty upon the grounds of the agreement made at the Hague, which we intend to offer unto the two kings, and to proceed according to our inſtructions againſt the refuſer. To-morrow the Hollanders, and two of us, viz. Honywood and Sydney, intend to go to Copenhagen to begin with the Daniſh king, and then return to the Swede, hoping to find him in a better and more prudent temper than we left him. And though he did

rage and ſtorm horribly upon the news he heard from the Hague, (which was a little before we came unto him) he finds all his council againſt him; and that ſuch courſes are of little force againſt thoſe, who are not at all in his power. We hear, that he hath found reaſon to appeaſe his choler: but the anſwer, which we have now received and ſent incloſed to your lordſhip, doth not at all ſhew him to be much mended. We think it alſo our duty to inform your lordſhip, that upon conſideration of the condition of our fleet, we find, that reſerving one month's victuals from their return into England, they cannot ſtay here beyond the two or three and twentieth of Auguſt; and do doubt, that if the whole ſhould return at that time, two great inconveniencies might follow; the one, that your lordſhip might be preſſed to find money to pay them; and the other, that if no Engliſh force remain here to ſee the treaty executed, or to enforce the acceptance of what ſhould be agreed by the mediators upon the refuſer or refuſers thereof, the whole fruition of the charge of this ſummer will be utterly loſt, and the Engliſh will depend wholly upon the will of the Hollander and Dane, who will be able, as they pleaſe, to force the king of Sweden to an union with them, perhaps to our prejudice. We have therefore thought it the beſt expedient, that about fifteen of our ſhips do remain here, and a proportionable number of Hollanders, when all the reſt return home; and do deſire your lordſhip to give order, that a proportionable quantity of victuals be provided for that number of ſhips of the fourth or fifth rate for one month; and by the next, your lordſhip ſhall exactly know the number of men in every one of them; and that it may be here by the end of September to bring them back about that time, if the buſineſs can poſſibly be ſo ſoon ſettled; or that your lordſhip would be pleaſed to ſend ſo many others of the lately ſet out ſhips, as may ſerve here for that uſe. We ſhould before now have agreed upon this courſe with the Holland miniſters; but they had no power for that purpoſe, until within theſe two days. We do alſo humbly deſire your lordſhip's order how to deal with the king of Swedes, if the refuſal of the peace be on his ſide, as we believe it will, he having beſide theſe incloſed papers, by meſſage, deſired us to mediate with the king of Denmark, that as a mark of his deſiring peace, he would releaſe the Swediſh ambaſſador, that he hath kept priſoner ever ſince the laſt breach, without which he would admit of no treaty. But, we hope, he will be better adviſed than every day to come with new propoſitions to put off the treaty, and doubt not but that will be effected, if the Hollanders do faithfully perform the commands of their ſuperiors, which they do very freely communicate unto us, and in all things ſeem very heartily to join in procuring a peace here upon the grounds agreed at the Hague, without ſeeking for their own nation any advantage, but what they deſire ſhould be granted to the Engliſh. We deſire your lordſhip's pardon for this long and tedious letter, which could not be avoided, but by omitting the particulars of all things, that had paſſed here between the

ſeveral princes, and their miniſters and us, which would have made our relation imperfect, and leſs eaſy to your lordſhip to ſend us ſuch certain and poſitive orders, as we deſire, and ſhall ever be punctually obſerved by,

My lord,
Your lordſhip's moſt humble and moſt obedient ſervants,
Alg. Sydney.
Elſenore, Auguſt 10, 1659. Rob. Honywood.
Read Auguſt 24, 1659. Tho. Boone.
E. Montagu *.

COL. ALGERNON SYDNEY TO THE COUNCIL OF STATE

My Lords,

General Montagu having thought fit to return into England with the whole fleet, I eſteem it neceſſary for me, not only to teſtify unto your lordſhips, that I did in no ways aſſent unto that reſolution, but to give you the reaſons why I did endeavour to hinder it.

Firſt, we had no poſitive order to ſend back the whole fleet until forty days after our arrival, of which about nine are yet wanting; nor implicite, until the buſineſs is done, for which we came, and the treaty of peace concluded and executed.

Secondly, we have an order, after the fifteen days are expired, one or both kings refuſing or accepting the peace, to enforce the acceptance, or ſee the execution, which now we cannot do.

Thirdly, by the retirement of the whole fleet, the agreement made at the Hague, ratified by parliament, is broken; the charge of this ſummer loſt; the intereſt of the commonwealth in theſe parts endangered; the Swede expoſed to be deſtroyed by the Dutch, or compelled to join with them in a league againſt the Engliſh, which they may conclude, without breaking faith with us, the firſt breach having been on our ſide, who, inſtead of aſſiſting them to make peace, leave them engaged in a war.

Fourthly, that by continuing a fleet of about ſixteen ſhips, victualled with a month's ſea proviſions, which, at ſhort allowance, laſts ſix weeks; and three weeks of freſh proviſions, which might be had here for 1500*l.* that a merchant here did offer to lend upon a note from the general, my colleagues, and myſelf, we might have accompliſhed the ends aforeſaid, and continued here, as occaſion ſhould have required, or your lordſhips orders direct.

Laſtly, The ſcruple being the danger of leaving ſixteen ſhips within the power of the Hollander, it is anſwered, that the miniſters here have not yet

* Vol. vii. p. 724.

yet received any orders to ſend back part of their fleet, but do every day expect them. In the mean time they offer to join ſuch a part of their fleet with ours, as we ſhall think fit to enforce the peace under the command of our admiral; and that the reſt ſhall continue in any part of all theſe ſeas, that we ſhall deſire; attempt nothing, but with our conſent; and for the making good of this, do offer their own perſons, to be kept on board our ſhips as hoſtages; and to take away farther ſcruples, did yeſterday agree with us, that the joint force ſhould be uſed againſt either of the two kings, only until he aſſents unto the conditions of peace propoſed; that nothing ſhall be attempted againſt either of them, but with the conſent of the miniſters of both commonwealths; and that neither of them ſhould make peace with either of the kings without the conſent of the other.

I could not ſatisfy myſelf without repreſenting this unto your lordſhips. If I have given you an unneceſſary trouble, I hope your lordſhips will be pleaſed to pardon me, my zeal for the commonwealth's ſervice being the inducement, and my deſire to obey your lordſhips commands, which ſhall ever be a rule not to be tranſgreſſed by

Your lordſhips moſt humble, faithful, and moſt obedient ſervant,

Copenhagen, Auguſt 21, [1659] *Alg. Sydney* *.

COMMISSIONERS IN THE SOUND TO SECRETARY THURLOE

My Lord,

As ſoon as we had made our laſt diſpatch of the tenth of this month, two of us, viz. Honywood and Sydney, came to Copenhagen, and preſſed the king of Denmark and his ſenate upon the two points of declaring, that he would treat with the king of Sweden, and that by commiſſaries; from whom we did obtain ſuch a declaration as we deſired, two ſenators being therein named commiſſioners; the king alſo adding thereunto, that the matter of the treaty ſhould be ripened by the mediators, unto whoſe judgment he did abſolutely refer the determination of all differences between the king of Sweden and himſelf, which was delivered unto us upon this condition, that we ſhould only ſhew it to the king of Sweden, but not ſuffer any copy to be taken of it; and in caſe the peace ſucceeds not, that it ſhould be returned again into his hand that gave it; which we promiſed to do. With this we returned to Elſenore, thinking our work well advanced; obtained an audience from the king of Sweden; ſhewed him the declaration, unto which he returned anſwer, "Je vous reçois comme mediateurs, non pas comme arbitres:" named

* Vol. vii. p. 731.

named two ſenators to be his commiſſaries, of whom the one called Bielk hath been employed by him as ambaſſador in Copenhagen, and upon his laſt irruption into Zeland had been made a priſoner upon ſome pretence of practices contrary to the duty of a public miniſter, and detained until that time; adding many diſcourſes of his apprehenſion, that if the peace were made, the king of Denmark, being probably forced unto it, would never keep it; and that he muſt not omit his own ſecurity. This diſcourſe ſounding, as if he, concluding that peace upon diſadvantageous conditions, was certainly forced, that which was forced would never be kept; the king of Denmark would never part with ſo large a proportion of his country, if not forced; therefore it was not to be expected he would keep it; and ſometimes ſpoke, as if he would have no peace at all with Denmark. We uſed what arguments we could draw from the Dane's weakneſs, and the mediating ſtates readineſs to interpoſe, to make good the treaty, to take away that groundleſs apprehenſion. But he continued the like diſcourſes, and adding, that he muſt rely upon his own ſtrength, not the aſſiſtance of his friends, for his ſecurity; and that having advantages in his hands, it were a great folly to leave them, and depend upon others: it was at laſt concluded, that his majeſty ſhould come to the camp, before this town, the next day, being the 16th of this month; where at a nearer diſtance he ſhould be better able to diſcern, whether the Dane's aſſent were voluntary or forced. We then preſſed, that Bielk being a priſoner, he would not propoſe any thing that was likely to obſtruct the treaty; that he would have his liberty within a few days, upon the article for the general releaſe of priſoners; and deſired he would be pleaſed, whilſt the ſafe conducts and other formalities of the treaty were preparing, to confer with us upon the principal points, that remained in difference between him and the Dane, which in that time we might ripen to be concluded by the commiſſioners on both ſides at their meeting. His majeſty inſiſted upon the nomination of Bielk, and refuſed to have any diſcourſe with us upon the matter. Our journey was deferred until the 17th by his majeſty; on which day he came to his camp, and we to this town, mediated with the king of Denmark for the releaſe of Bielk; obtained it, and the 18th, carried him with us to the camp, and there delivered him free unto his majeſty. We hoped at the ſame time for an opportunity of conferring with him upon the buſineſs in hand, the miniſters of the three mediating ſtates being preſent; but we were received in a public room full of officers, courtiers, and ſervants, not at all fit for any diſcourſe, that ought not to be as public as they could make it. But reſolving to loſe no opportunity, we did offer unto his majeſty a paper, of which we ſend your lordſhip, here incloſed, a copy, telling him it was drawn by the miniſters of the mediating ſtates, and offered unto his conſideration. He aſked what it was, and what it did contain. We anſwered, it was a project of the treaty, which if his majeſty would peruſe, we hoped would ripen matters againſt

againſt the meeting of the commiſſioners, and much expedite the work of that ſo much deſired peace. He anſwered (directing this ſpeech to us) that he did receive us "comme mediateurs, non pas arbitres;" that he would not receive the project of a treaty, nor treat with any but the king of Denmark: and then turning to the Holland miniſters, he told them he looked upon them as his enemies, and would in no hand admit of their mediation, and in great choler turned away, and went to the other ſide of the room; and ſoon after told us, that we made projects upon our fleets, and he, laying his hand upon his ſword, had a project by his ſide. Soon after we took our leaves, and returned to the town, thinking that behaviour ſomething extraordinary to be uſed to the public miniſters of ſo conſiderable ſtates; and that his majeſty ſhewed, he did not well remember, by whoſe help he had been maintained all this ſummer, and enabled to make his conqueſts, which yet would have appeared more ſtrange unto us, if we had not been accuſtomed to that, which is ſuitable unto it. After the firſt ceremonies of our reception were over, we have been forced to ſpend theſe eight days upon frivolous diſputes in titles and forms of the ſafe conducts, which are now paſſed over, and the commiſſioners did meet this day. After the uſual civilities paſſed on both ſides, in a place midway between two tents, the Danes and the Swedes retired each into their own. Soon after the Danes went, and offered this incloſed paper, conſiſting of five general propoſitions. The Swede deſires to remove the treaty to Elſenore, or Roſchild; and unto which neither the Hollanders nor the Danes will conſent. To-morrow we intend to offer unto the commiſſaries of both parties the project, which was firſt offered to the kings ſeverally, and refuſed by the Swede: it was at firſt offered unto his conſideration, but now his conſent will be required. The Dane (to avoid the tedious diſputes of all the mutations deſired by both parties in the treaty of Roſchild) reſolves to agree unto them all, unto which one more is to be added for the time of the evacuation of the Swediſh forces; and another of amneſty for the inhabitants of Bornholm, who having formerly ſlain all the Swediſh garriſon, muſt expect nothing but deſtruction, if they are not ſaved by the treaty. On the 22d of this month general Montagu went from hence. This day we hear he is ſet ſail for England with the whole fleet, excepting two frigates and one ketch. This day we received a letter from Sir Phil. Meadowe, wherein he expreſſeth an intention of going into England with the fleet, and deſires our advice in it, which we could not give, having no orders, though for many reaſons, too long now to relate, we thought he might without prejudice to the commonwealth retire himſelf out of this public ſervice. None of Mr. Noel's bills of exchange are accepted by de la Biſtrate, nor can we get a penny upon his credit. We deſire your lordſhip to be pleaſed to ſend us a ſupply of money or credit, we being obliged to be at an exceeding great expence by making journies perpetually in a waſted country, and living in a beſieged town, where all things are exceſſively dear;

dear; and alſo that your lordſhip will let us have your order, how we ſhall diſpoſe of ourſelves, whether the treaty between the two kings can be perfected before winter or not. We are,

My lord,

Your lordſhip's moſt humble and moſt obedient ſervants,

Alg. Sydney.
Rob. Honywood.
Tho. Boone.

Copenhagen, Aug. 24, 1659.

We deſire your lordſhip to give order for the payment of 280*l.* charged upon the treaſurer of contingencies, payable to ſir Philip Meadowe, or his order.

Indorſed, Received September 16, 1659*.

FROM THE COMMISSIONERS IN THE SOUND

My Lord,

By ours of the 24th of Auguſt, we did give your lordſhip an account of what proceedings we had then made in the buſineſs you had commanded us. Since that time we have been able to make a very ſmall progreſs. The king of Denmark did refuſe to ſend his commiſſioners to the place of treaty, after they had declared, that their king did aſſent unto all that was agreed upon at the Hague by the miniſters of the three ſtates, unleſs the king of Sweden would do the like, which he hath refuſed abſolutely to do, or to give any anſwer unto the project of the treaty, grounded upon the ſaid agreement, and formerly delivered to his commiſſioners by the miniſters of the mediating ſtates. All that was left for us to do was, to perſuade the king of Denmark to continue the treaty notwithſtanding; and after much ſolicitation of the Holland miniſters, and the ſervants your lordſhip employs here, it is at the laſt reſolved, that the treaty ſhall be renewed, that the reichs-hofmeiſter be added to the commiſſioners on the Daniſh ſide; and we have this day ſent to Frederickſburg to deſire a ſafe conduct for him, and for the Holland miniſters, who do not think it fit for them to hazard themſelves within the Swediſh power without it, now that their fleet acts againſt them by their orders. We did not at the firſt find the reaſon of the Dane's unwillingneſs to renew the treaty; but within a while we diſcovered it to proceed from the miniſters of Auſtria and Brandenburgh, and their friends in the Daniſh court, who deſire to avoid the peace. Whilſt the Swede is detained in thoſe hands, they may take from him that, which he holds in Pruſſia, Pomerania, and Bremen. The Swede might, as we conceive, have found great advantage by aſſenting to the points agreed at the Hague, ſtopped the proceedings of the Holland fleet againſt him, and at leiſure might have debated of the time of evacuating of his forces, and other things, which would have gained him much advantage, and

* Vol. vii. p. 732.

poſſibly have caſt the refuſal upon the Dane. But he is obſtinate in refuſing. We do not know in what his confidence lies. His force here is not great, and every day impairs. He is powerfully aſſaulted by the Muſcovite in Livonia, the Polander in Pruſſia, the emperor and elector of Brandenburgh in Pomerania; and we hear, that an army of Auſtrians, of about 1400 men, is preparing to aſſault Bremen about the end of this month. The Hollanders employ their whole force againſt him. A conſiderable number of Brandenburgiſh horſe will be ſoon tranſported hither; and in what he can place any confidence, we cannot tell, unleſs it be, that he ſtill expects ſuch ſucceſs, as he had when he came firſt into this iſland, when facing this town with about 400 horſe and foot, he forced the Dane to the treaty of Roſchild, that had 5000 horſe, and 20,000 foot within it: or that he thinks ſtill, that though for the neceſſity of preſent affairs, the parliament did make the agreement at the Hague, to gain time with the Hollanders, yet as ſoon as the troubles in England were over, that Cromwell's deſign ſhould be purſued here. And though we do often tell his majeſty, and his miniſters, that the parliament hath ratified, and will make good their agreements at the Hague, that having given him ſo fair an opportunity of making peace here upon honourable terms, ſo as to have leiſure to defend himſelf againſt the enemies, that aſſault him in other places, if he neglect that, no more is to be expected from thence; yet he ſtill continues in the ſame mind, and ſays often to his ſervants, that let us ſay what we will, England and France will never ſuffer him to fall, but will rather employ their utmoſt forces to aſſiſt him. Perhaps the letter from the parliament will convert him, eſpecially coming after the defeat of the rebels in England. We have ſent this day to demand audience of him; but he is ſo perpetually in motion, that it is hard to find him, and perhaps many days may paſs before we obtain it.

The Danes have ſeized on a place in Schonen called Aſtede, with about eight hundred foot. Many of the country come in unto them. It is ſaid the whole province is ready to revolt. The king of Sweden hath ſent the marſhal Steinbock againſt them. The place is weak, and may be in danger of being loſt, if not ſpeedily relieved. Colonel Killegrew, with about 1000 Holland foot, is commanded thither. He was on Saturday night ſent with that force to ſeize upon Koeg, a place about three Dutch miles from this town, fortified by the Swede. But the deſign was diſcovered, the enemy prepared, and ſuch a force brought into the place, as made the officers to conclude, it was beſt to return without attempting any thing; in which they did well, for probably they had been all loſt. We ſay nothing unto your lordſhip of the fleet, preſuming, that long before this time general Montagu hath given your lordſhip an exact account of all things belonging unto it; and hoping, that if your lordſhip ſhall think fit to ſend back to us ſuch a part as was mentioned in the parliament's order, and your lordſhip's letter, you will give us directions how to employ them. The Holland miniſters have now received punctual

orders from their ſuperiors, and offer to join what part of their fleet we deſire with ours. We do alſo deſire your lordſhip to conſider, how and how long we may in this place be ſerviceable to your lordſhip and the commonwealth, to let us know your mind, and receive your commands in it, which with all readineſs to the utmoſt of our power ſhall be exactly obſerved by,

My lord,
Your lordſhip's moſt humble, and moſt obedient ſervants,
Alg. Sydney.
Robert Honywood.
Tho. Boone.

Copenhagen,
Sept. 12, 1659.

Since the writing of this letter we hear that the Danes, who had ſurpriſed Aſtede, upon the approach of marſhal Steinbock, did think fit to retire to their ſhips, which they did without loſs. Colonel Killegrew met them at ſea, and all together are returned to this town.

Whereas the purſers of the Maidſtone and Langport frigates have charged the ſum of 120 l. ſterling and 80 l. ſterling upon the treaſurer of the navy, we deſire your lordſhip's order to the treaſurer for the payment of the ſaid bills *.

COL. ALGERNON SYDNEY TO SECRETARY THURLOE

Honoured Sir,

I did yeſterday receive two letters from you, which, though they were not dated, by the matter contained in them, and coming after that, which I formerly received, dated the $\frac{16}{26}$th of March, ſhewed they were very freſhly written. Though the important points, that have been in controverſy between the crowns of Sweden and Denmark, are by general declarations on both ſides admitted, we ſtill find difficulties and delays in the treaty. The commiſſioners on both ſides, did the laſt week meet three days ſucceſſively, one after another, without advancing one ſtep towards a concluſion. The method they agreed upon as the moſt expeditious was, to go through the Roſchild treaty, examine every point, and change that, which ſhould be neceſſary. The firſt day was ſpent by the Danes in a diſpute upon the ſecond article, deſiring ſuch a mutation, as might leave them at liberty, of continuing and contracting defenſive alliances. The Swedes knowing, that under the name of defenſive alliances they did intend thoſe, that were truly offenſive, and that there was a deſign betwixt the emperor, kings of Poland and Denmark, and elector of Brandenburgh, under pretences of mutual defence, to make a league againſt Sweden, would not conſent, that the article ſhould be changed. The mediators, according to their orders, joined with them: the Danes yielded. Nevertheleſs the next day they brought

* Vol. vii. p. 741.

the ſame point again into diſpute, and ſpent their whole time upon it, without coming to any concluſion. The third day the Danes propoſed the changing of their method of proceeding, offering, that they would give unto the mediators a project containing the conditions, upon which they would make peace. I was ready to accept this, knowing, that they muſt in that conform themſelves unto the agreement of the Hague; and then the peace could be immediately concluded; or by varying from it, they muſt be refuſants. But the other mediators did rather chooſe, that equally on both ſides they ſhould deliver unto us thoſe mutations, which each of them deſired ſhould be made in the treaty of Roſchild, in writing, that we might do our office in reconciling the differences between them. The Swedes aſſented unto that alſo. This morning was appointed for receiving the papers on both ſides. The Swedes are ready, but I hear nothing from the Danes. I cannot but wonder at the confidence of thoſe ambaſſadors, that deſire ſatisfaction for their loſſes by the delays of the peace of this winter, when nothing is more true, than that they have been cauſed by the Danes, at leaſt as much as by the Swedes. And now they do in all things proceed with more frivolous diſputes, to evade the concluſion of the peace, than the others; and unleſs they be forced, will never conſent to the conditions propoſed, notwithſtanding all their declarations and promiſes. In my opinion the ſtates had no reaſon to wonder at our proteſt, unleſs they thought, that we, having no force here, ſhould in all things receive the law from their miniſters, as if we ſerved a ſtate, that had not a ſhip in the world, or that was plunged into ſuch difficulties and diſorders, that we could never hope to ſee it recover out of them. We were of another opinion; and though England hath no force here, nor is at preſent in a condition of ſending any, whereby we can defend ourſelves againſt the wrongs we receive, we thought it neceſſary to leave ſuch a paper, as might juſtify our proceedings, whenſoever it ſhould pleaſe God to put us into a condition of demanding right and ſatisfaction. The truth is, the proceedings of 292 are inſupportable; for beſides their inſolency in 112 109 76 181 330 207 302 217 137 147 48 86 63 11 142 138, 631. 212 443 142 113. 176 141 113 332 207 11 61 66 do ſometimes humble them; but they return again to their old courſe. This obliged us to deliver the paper, which Slingerland did profeſs was reaſonable, and that they could expect no leſs. And when they could not find fault with the matter, they took exceptions at it for being falſe Latin, which probably is true; for our two ſecretaries being abſent, I wrote it, having never in my life written ſo much as three lines in that language. But I am not ſolicitous for that reproach in a man of my profeſſion; the breaking of Priſcian's head is no great crime. Pray do you take care, that the Danes do not obtain any order, that may retard the peace: perhaps they will not be ſorry to

the Dutch ambaſſadors
treating with France and England as ſubjects,
Sydney cannot truſt what they ſay.
The Fr. ambaſſ. and we

be denied. They think they muſt aſk for the ſatisfaction of their allies; but I think are willing to be forced to the peace by the Hollanders, that they may viſibly deny them any reward for their aſſiſtance. And I believe the chief reaſon, that makes the Hollanders unwilling to force them, is the knowledge, that they ſhall thereby ruin their pretence to be reimburſed for their charges. We ſhall not be unmindful of the intereſt of England in any time, wherein we may advance it; but very little liberty is left unto us more than by obtaining the ſame privileges in trade for our nation in the dominions of Sweden and Denmark, as by any treaty is allowed unto the Hollanders. And whatſoever is in the treaty of Elbing, which may be drawn unto prejudice under the name of *turbatores pacis*, &c. it is not in our power to hinder it; the agreements of the Hague ratified by parliament, and our inſtructions obliging us to endeavour the confirmation of it, together with its elucidations. I am, Sir,

Your humble ſervant,

Copenhagen, April $\frac{2}{12}$ [1660.] Alg. Sydney*.

COL. ALGERNON SYDNEY TO MR. DOWNING

Honoured Sir,

I wrote this incloſed letter ſome days ſince, but had not an opportunity of ſending it ſince that time. We have received a long formal project from the Swede, with a multitude of elucidations of the Roſchild treaty, and other little things they would endeavour to bring in, but not in any material point contrary unto it. The Danes did at the ſame time give us their exceptions to our project delivered to them in January laſt. They do not conſiſt of ſo many ſheets of paper, as the other; but do directly contradict the Roſchild treaty, their own declarations, and our agreements in all the material points, concerning alliances; the ceſſion of provinces to Sweden, and the buſineſs of Holſtein, with ſome others. We forgot not to make uſe of this, to ſhew the ſincerity of their deſires of peace, and how well they deſerve the ſatisfaction expected. We have had ſome conferences with the commiſſioners on both ſides upon their ſeveral papers communicated unto each party, what we had received from their adverſaries, and heard what they would ſay to juſtify their own pretences; finding that they would diſpute and cavil for ever, without concluding any thing. The mediating miniſters are to meet tomorrow, and form a project ſuitable unto the treaty of Roſchild, the declarations of both kings, and their own orders; by which we hope both parties will ſuffer their intereſts to be regulated. I am,

Your humble ſervant,

Copenhagen, April 7, [1660.] Alg. Sydney †.

* Vol. vii. p. 881. † Vol. vii. p. 887.

THE PROTECTOR's ADVICE TO ALGERNON SYDNEY.

COMMUNICATED BY THE LATE DR. RAWLINSON.

The following curious anecdote was found indorſed on a paper, ſigned ALG. SYDNEY.

The Protector's advice to me, when I went from him to the king of Sweden in Poland; which I wrote from his own dictating, and the alteration in the ſecond particular is his own hand.

I. If you would not miſcarry in this buſineſs, know firſt, that all public buſineſſes, and private too, proſper and ſucceed only as God is pleaſed to determine them.

II. And *that* —— therefore the greateſt wiſdom in them that are employed about buſineſs lies in this, that they ſeek to be accepted with God, which no man is, but by Jeſus Chriſt.

III. That there be a denial of a man's own abilities, and that work be undertaken with humility and meekneſs of ſpirit, and that one be ſwift to hear and ſlow to ſpeak, well underſtanding before he anſwer.

IV. That a man in his converſations, as he would have a bleſſing, abſtain from all manner of evil, and do conſtantly, with all earneſtneſs and truth of heart, cry to God for a bleſſing, ſeeing he diſpoſes the iſſue of all buſineſſes as he pleaſes.

LETTERS OF ALGERNON SYDNEY,

TAKEN FROM THE SYDNEY PAPERS

LETTERS OF ALGERNON SYDNEY,
TAKEN FROM THE SYDNEY PAPERS

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I attended the laſt week upon the committee of ſequeſtrations, but they did not ſit. I had ſome expectation that they would this day; but the Painted Chamber is taken up this afternoon, by the commiſſioners, for the trial of the king. I have ſpoken with divers, concerning your lordſhip's buſineſs *, and find them all of opinion, it cannot be denied. The only difficulty is in getting a committee to ſit, for all mens brains are ſo full of the great buſineſs, that they will not give themſelves leave to think of any other. The propoſition of the cavaliers, for the ſaving of the king, doth not obtain ſo much as a hearing. This day they are again to be ſent out of town, by order of the houſe of commons, to the general. The lords ſat yeſterday, paſſed the ordinances for money, for the army, and navy; and are now very ſeaſonably paſſing an ordinance *to make it treaſon for any king to make war upon the parliament*, and have deſired a conference with the houſe of commons, to know, whether thoſe votes, that go under their names, aſſerting all juſt power to be originally in the people themſelves, to be the repreſentative of the people, and that to the validity of any law, paſſed by them, neither the aſſent of king nor lords is neceſſary, were paſſed by them. *I think, that if the houſe of commons had not been very haſty in turning the ordinance for the king's trial into an act of their own, and contented themſelves with their own power, the lords are now in a temper to have given their aſſent, if they had received a ſecond meſſage from us.* My lord of *Northumberland*, I think, intends to come to the houſe; our admiral hath not been there yet; he is ſo ſick as not to come thither, but takes liberty to go to any other places; he is in great uncertainty, and knows not yet which party to join with. I will endeavour, if it be poſſible, to get your lordſhip's buſineſs heard this week; Mr. *Windham* hath promiſed me to be there; Mr. *Hales* excuſeth himſelf, he never having practiſed there. My brother *Robert*, I hear, is made lieutenant colonel to my lord of *Oxford*, old *Berinton* being dead, which is the cauſe we do not ſee him here. I am

Your Lordſhip's, etc.

Leiceſter Houſe, Jan. 10, 1648. Alg. Sydney.

I am in great haſte called away, ſo that I cannot write to my lady. I deſire your lordſhip to tell her that I will be at the committee the next week, if ſhe thinks that my being there will be any ways ſerviceable to her ladyſhip.

* The taking off the ſequeſtration of his eſtate. See more of this matter in Collins's Memoirs of the *Sydneys*.

EDWARD MARQUIS OF WORCESTER TO COLONEL A. SYDNEY

Honoured Couſin,

Gold is tried in a furnace, and nothing approacheth to the purity of Gold, more than reality and truth; and conſequently nothing endureth better the teſt: I think myſelf therefore happy, to have fallen into ſuch knowing and ingenious hands as yours, whoſe former apprehended character of me, may by this means be rectified; for this, you will find me to have been real and faithful to the party, to which I profeſſed ſubjection and obedience; but never to have uſed animoſity nor rigor to that of the parliament, to which I am now reſolved to carry myſelf, according to my profeſſion of honour and conſcience, with a like truth, induſtry, and courage, if accepted and confided in; then actively to afford my endeavours; if not, to lie ſtill, and not tend any way to their prejudice; which I do not ſay out of any fear, ſince what I did then, I thought myſelf bound in honour and conſcience to do it, in obedience to them who commanded me; and it ſhall not trouble me, to ſuffer under that notion, as it ſhall not hereafter to ſuffer for what I now do, ſhould the tide turn. And therefore, to contribute my mite in duty and honour to my country, I herewith ſend you particulars of both kinds deſired by Sir *Henry Mildmay* and you, applauding the council's choice of ſo induſtrious and capable perſons to receive them; and ſince my lord *Bradſhaw* hath been acquainted with my anſwers and proceedings, upon which more depends; intending not to ſwerve a tittle from any thing, I have ſaid, whereof none can better judge than his lordſhip. My humble motion therefore is, that the right honourable the council of ſtate, would impower you three to receive my particular addreſs, and to give me ſpecial orders, from time to time, *ex re natâ*, without further troubling them, but upon emergent occaſions; for a buſineſs of this kind, agreed upon by the whole body in the generality, is fitteſt for a private committee of ſufficiency and truſt; ſuch as you are, whoſe hands I humbly kiſs, and on whom that I may the better attend, I humbly offer this petition; and be aſſured to have to do with a perſon of honour and fidelity, and

Your moſt affectionate couſin and ſervant,

Jan. 5, 1652. Worceſter *.

* The marquis was a great mathematician, and eminent both at home and abroad, for the engines and waterworks he projected; one of which, on the *Thames*, occaſioned this letter, and was afterwards ſettled on him by act of Parliament 14 Car. II.

The letter being curious, is added to this collection.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I received your lordſhip's letter on *Tueſday* at night, but could not come to town ſoon enough on *Wedneſday* to return any anſwer unto it. Since that time I have made ſome little progreſs in the buſineſs of the 2500*l.* and I am promiſed it by two ſcriveners. The one hath the money ready at a day's warning, and I am going juſt now to ſpeak with him, and the perſon that owes it, to ſettle the buſineſs of the ſecurity. The other ſhall have the money within two or three days. I keep them both in treaty, that if one ſhould make any ſcruple upon the ſettlement of the eſtate, the other may be made uſe of. Which of them ſoever you employ, will have the ſame terms, as was agreed with *Hall.* One of them aſked higher, but I brought him into the ſum of 30*l.* I ſpoke with my lord *Strangford*, concerning the ſettlement of his eſtate, which your lordſhip did expect he ſhould make, according unto the deed ſigned by him before his marriage: unto which he anſwered, that he was now about making ſuch a ſettlement of his eſtate, as he thinks when it is perfected, will ſhew his kindneſs unto his wife, and give ſuch ſatisfaction unto her friends, as can in reaſon be required. Mrs. *Danvers* failed of coming unto Mr. *Villers* his houſe, according unto her promiſe; the reaſon I do not know, but I take the breach of a promiſe to be but an ill ſign. When I was with her, my buſineſs went well enough, but I know not how firm ſhe will now be to her own reſolutions, againſt *Salway*'s perſuaſions, in her abſence from hence, nor when ſhe will return. If I had diſpatched this buſineſs of your lordſhip's, I ſhould wait upon you, having no other to detain me here, where my ſtay is ſeldom matter of election. I give your lordſhip many thanks for the favour expreſſed in your letter, which I will deſerve, if it be in the power of

Your Lordſhip's, etc.

Leiceſter Houſe, April 7, 1658. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

The paſſage of letters from *England* hither is ſo uncertain, that I did not, until within this very few days, hear the ſad news of my mother's death. I was then with the king of *Sweden* at *Nycopin* in *Falſter*. This is the firſt opportunity I have had, of ſending to condole with your lordſhip, a loſs that is ſo great to yourſelf, and your family; of which my ſenſe was not ſo much diminiſhed, in being prepared by her long, languiſhing, and certainly incurable ſickneſs, as increaſed by the laſt words and actions of her life. I confeſs, perſons in ſuch tempers are moſt fit to

dye, but they are alſo moſt wanted here; and we, that for a while are left in the world, are moſt apt, and perhaps with reaſon, to regret moſt the loſs of thoſe we moſt want. It may be, light and humane paſſions are moſt ſuitably employed upon humane and worldly things, wherein we have ſome ſenſible concernment: thoughts, abſolutely abſtracted from ourſelves, are more ſuitable unto that ſteddineſs of mind that is much ſpoken of, little ſought, and never found, than that which is ſeen amongſt men. It were a ſmall compliment for me to offer your lordſhip to leave the employment in which I am, if I may in any thing be able to eaſe your lordſhip's ſolitude. If I could propoſe that to myſelf, I would chearfully leave a condition of much more pleaſure and advantage, than I can with reaſon hope for. Before I undertook this, many difficulties did appear unto me, and I have not found them leſs than I expected; the ambition of the king of *Sweden*, and the weakneſs of the king of *Denmark*, make thoſe buſineſſes very difficult, that muſt be ſo ordered, as to ſatisfy them both; the one hates every thing that ſtops his conqueſts, and the other doth not well underſtand the ſtate of his own affairs. *England* is too far engaged with the United Provinces, to aſſiſt *Sweden* in the *Daniſh* war, but if he make peace here, I think he will not be deſerted. Our buſineſs is now brought to this, that the King of *Sweden* doth offer to make peace with *Denmark*, almoſt upon the ſame terms that were offered unto him by the mediating miniſters, if their three ſtates will endeavour to make his peace with the emperor king of *Poland*, and elector of *Brandenburgh*, or to aſſiſt him againſt the emperor, if he will not grant him peace upon the conditions of the *Munſter* treaty. All are willing to offer their mediations, think their ſuperiors will give their aſſiſtance of 4000 foot from each ſtate as is deſired, but find not themſelves furniſhed with powers to engage them in any ſuch treaty; but the thing agreeing with their judgments, they have all agreed to repreſent it to their ſuperiors, as a thing wherein they are concerned, that the *Swediſh* intereſt in *Germany* be not deſtroyed; which will certainly be, when he is aſſaulted by ſo many enemies, and not powerfully aſſiſted, which he can expect to be from no others. Much more is expected from *France*, than is deſired. The ambaſſador of that crown did lately ſhew me a letter from the cardinal *Mazarine*, wherein he ſaid, he had ſeveral conferences with Don *Luys de Haro*, concerning the affairs of *Germany*, in which he had declared, that if the *Auſtrian* forces did not retire out of *Pomeraine*, it was reſolved a *French* army ſhould immediately enter the empire, of which he hath given the Ambaſſador power to aſſure the king of *Sweden*. *Holland* will not break openly with the emperor, but we have hopes, they will be brought to furniſh *Sweden* with ſome money, and give that king liberty to raiſe ſome men upon their frontiers. I have drawn this incloſed repreſentation of the northern affairs, to be ſent unto the council. By the laſt letters we received from them, liberty was granted unto us to return home, if we thought it might conſiſt with the good of affairs here; but we find ſo many inconveniences in leaving this place at preſent, without ſome *Engliſh* miniſter, that we dare

dare not return without a command; but we intend one of us ſhould return immediately, and to that end have choſen Mr. *Boone*. I did ſue for that employment, but the princes with whom we are to treat, and our fellow mediating miniſters, did not conſent, ſo that ſir *Robert Honywood* and I muſt ſtay, until we have further orders. I do not know how our ſtay here will be underſtood; but if it be not thought of merit, I ſhall think I have to very little purpoſe expoſed myſelf unto a great deal of trouble. I am in all things uncertain how I ſhall diſpoſe of myſelf, but think, that if I do not return as ſoon as I can have an anſwer to the letters I now ſend, the *French* ambaſſador, and I, ſhall take a journey into *Poland*, to mediate for peace there; in which there is little doubt, if we can be ſo happy as to ſee it eſtabliſhed here. I do not at all expect it in *Germany*, all things there bend to a war, and I believe by the next ſummer, we ſhall ſee that country as much inflamed as ever. The proteſtant princes, and the electors of *Mentz* and *Cullen*, look upon *Sweden*, *France*, and *England*, for aid. The Emperor relies upon ſuccours from *Spain*; we hope the elector of *Brandenburgh* will be drawn from his party. The treaty between *Sweden* and *Poland* is not yet begun; they have ſpent eight or nine months in diſputes upon the preliminaries, and as I hear, the counts *Magnus de la Garde*, and *Slipenbach*, have inſtructions to make ſuch haughty demands, as do not well ſuit with the preſent condition of their maſters affairs; but he hath promiſes to reduce them all to ſuch a ſum of money for the places he holds in *Pruſſia*, as the miniſters of the mediating ſtates ſhall think reaſonable. I may perhaps be guilty of ſome impertinence, in entertaining your lordſhip with theſe things, which perhaps you do not care to know; but this ugly northern part of the world being very conſiderable unto the reſt, and as things now ſtand, peace or war in the principal places of *Europe* depending upon the ſettlement of affairs here, I thought your lordſhip would not be unwilling to receive an account of them; which, though it is rude, I think it is true, at leaſt ſo far, as I could pierce into the knowledge of this affair, which is intricate enough, to excuſe the miſtakes of thoſe that are much more verſed in thoſe of the like nature, and have much more reaſon to think themſelves able to judge of them, than I can do, without a very unpardonable preſumption. If I have miſtaken your lordſhip's mind in this, by throwing theſe papers into the fire, your lordſhip hath an eaſy way of preſerving yourſelf from trouble; and if you care to know any more of theſe buſineſſes, I ſhall, as long as I am here, give your lordſhip an exact information of them, or any thing elſe that is in my power, and for your ſervice, according to the duty of

Your Lordſhip's, etc.

Copenhagen, Nov. 5, 1659. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I ſend this to your lordſhip by our ſecretary, whom we have diſpatched unto the parliament and council, with the news of the king of *Sweden*'s death, and to receive ſuch orders, as upon a repreſentation of the ſtate of affairs here, the parliament will think fit to ſend upon ſo great a change, as this is likely to bring unto all theſe northern parts of *Europe*. I think, never any prince had ſo many and potent enemies as he, that did ſo well defend himſelf againſt them, with a ſmall ſtrength; his greateſt was, in his own induſtry, wit, and courage; and I make no doubt, but they will grow as inſolent after his death, as they were fearful and humble when they were to deal with him ſingly, and will expreſs their rage and hatred againſt the young king and his mother, which could never hurt him, unleſs when multitudes aſſembled on all ſides to aſſault him. I have of late thought we ſhould ſpeedily have a peace here; I hope this will not retard it, but the conditions will be leſs for the advantage of *Sweden*. I was then deſirous of ſeeing it concluded before I returned; I confeſs now, I am more unwilling to leave it undetermined; the chief inducement then was, the intereſt of *England*; I can now add to that conſideration, an obligation, by all the rules of humanity and charity, to endeavour the protection of an infant, and a very virtuous mother. I am apt to think the queen *Chriſtina*, will now think fit to turn *Lutheran* again, and endeavour to breed ſome diſturbance in *Sweden*; but, I hope, her party is ſo much diminiſhed by the reports that are made of the life ſhe leads, that her deſigns will vaniſh, without doing any great miſchief. I have appointed this bearer to wait upon your lordſhip, that if you care to know any thing of our buſineſs here, he may give you a very full relation, having been employed by me in it. I have not heard any thing of your lordſhip this many months, which is a great trouble unto me. I deſire your lordſhip to take me out of it; and if your own affairs, or health, will not give you the convenience of writing unto me, that you would appoint ſome ſervant to ſend me news of your health and concernments, how you are, and how you live, in this time, which, I know, muſt needs be ſolitary unto you; I fear, uneaſy. I ſhall rejoice in hearing I am miſtaken, and that all things do ſucceed according to your lordſhip's own deſires, and the prayers of

Your Lordſhip's, etc.

Copenhagen, Feb. 22, 1659-60. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have, by ſome letters, given your lordſhip as full relations of our affairs here as at *Penſhurſt* I could think you would be content to receive.

I hear your lordſhip is now called to a place, where the knowledge of what paſſeth in our negotiation, is a little more neceſſary unto you, than formerly, which will, I hope, perſuade your lordſhip, to pardon the trouble I now give you. By the action of the *Hollanders* in detaining the *Swediſh* ſhips, contrary to the conditions of the ceſſation, and their faith given to the *Swedes*, and to us, they had put themſelves out of the mediation. The *French* ambaſſador, and we, thinking both *Swedes* and *Danes* well enough inclined to peace, the principal obſtacles ſtill proceeding from the *Hollanders*, did undertake the mediation by ourſelves; in which work, we have ſo well ſucceeded, that the conditions are all agreed upon in *Latin*, tranſlated, according to the cuſtom of theſe parts, into the *Swediſh* and *Daniſh* languages, and there is nothing now remaining, but to have them written out fair, to be ſigned. The *Hollanders* may then come in to ſign the treaty, and the guaranty, releaſing firſt the *Swediſh* ſhips, which, I think, they will of themſelves offer to do. The queen of *Denmark* hath mediated for their reception, that ſhe may have ſome part in the concluſion of the peace; and more particularly in this, that having been (as is thought) the cauſe of their fault, ſhe may alſo be the means of reconciling them to thoſe they had hereby offended, and of bringing them out of the ſtreight into which they had very unadviſedly caſt themſelves. The conditions granted to *Denmark*, are more eaſy than thoſe offered for them by *Holland*, unto which the *Swedes* were induced, that they might oblige the king of *Denmark* to be their friend, as well as at peace with them, and to make the peace without the intervention of the *Hollanders*. By this means, I hope that theſe two kingdoms, finding the miſchiefs both receive by their diſagreements, will grow to be better friends than they have been in many former ages. We have propoſed unto them both an alliance between themſelves, for their mutual defence, unto which, in general, both parties ſeem much inclined; the particular conditions are referred unto a conference between the commiſſioners of both parts, when the treaty of peace is ſigned. Having compoſed the quarrel between the two kings, our next buſineſs muſt be to improve this peace to the good of our own nation. The firſt is, to break the alliances, that either of them have made to our prejudice, which are principally with the United Provinces; that ſtate hath, ever ſince the war with *England*, endeavoured to ſtrengthen itſelf, with defenſive alliances, with almoſt all the princes of *Europe*. The northern kings were not forgotten; they have made ſuch with either of them. We now endeavour to break them, or ſo to explain them, that there remain nothing that can be drawn to our prejudice. We are now in treaty with both crowns upon this point, and have agreed upon the ſubſtance. The *French* ambaſſador demands the like for *France*. The next work will be how to join theſe two crowns to us, as if the *Hollanders* would make war upon us, which is too much to be ſuſpected they intend, we may have more help and favour from them, than is given to our enemies, which will be no hard matter, perhaps, to obtain here; if *England* be in ſo quiet a condition, as to look after things abroad, and make uſe of the advantages that are offered.

We hear they have the like alliances with *Poland*, and the elector of *Brandenburgh*. The intention of the embaſſy to be ſent into *France*, upon pretence of a compliment, is to make a defenſive alliance there alſo; and, as I hear, *Van Beuning*, one deſtined for that employment, hath drawn a project for that purpoſe, wherein are many points directly intended againſt *England*. The two firſt, I think, may be invalidated there, or, at leaſt, that of *Poland*; the other requires your care at home. The *Hollanders* had, by a treaty with *Denmark*, in the year 1645, and in one with *Sweden* at *Elbing*, in the year 1656, and the elucidations agreed upon at *Thorne*, and the laſt year confirmed at *Elſinore*, gained ſo great advantages in all the provinces of *Sweden*, *Denmark*, and *Norway*, that the whole trade of thoſe kingdoms muſt neceſſarily come into their hands, if others did not participate the ſame with them, which we have obtained for our nation. In the agreement with *Sweden*, we have this clauſe, To enjoy all privileges which now are, or hereafter ſhall be granted unto any ſtate whatſoever. Beſides thoſe things which have happened here, to incline *Denmark* unto *England*, the change of government that is there expected, is not a ſmall inducement: this king expects much kindneſs from him that is likely to be the head of it, both for the nearneſs of blood, and ſeveral acts of friendſhip ſhewed unto him, when he was in his diſtreſs. One of the dukes of *Lunenburgh*, brother to this Queen, hath lately been at *Breda*, and ſent letters hither of what paſſed there, which gives very much ſatisfaction. The two kings deſire we ſhould ſtay here until the treaty be ratified, executed, and the evacuation of the *Swedes* forces out of *Denmark*, and the *Danes* out of the duke of *Holſteine*'s territories made and perfected; which we hope will be all done before the end of *June*. In the mean time, we may take leave of both courts, and then immediately take our journey homewards, if we receive no commands to the contrary. I have written all things that have paſſed here at large to Mr. *Thurloe*. I hope your lordſhip will have reaſon to be pleaſed with this reentry upon the ſtage of the world; and that you may in all changes, find as much ſatisfaction and advantage, as your own heart can wiſh, is, and ever ſhall be, the conſtant deſire of

Your Lordſhip's, etc.

Copenhagen, May 22, 1660. Alg. Sydney.

I do not ſay any thing of my own intentions, in relation unto the changes that are fallen out already, or the other that are daily expected. The truth is, I know them not; the buſineſs is too difficult to judge of at this diſtance, eſpecially, not knowing what will be in my power, or choice. If I do not receive new orders, I ſhall return ſpeedily home, and ſhall then follow that way, which your lordſhip ſhall command, and my beſt friends adviſe, as far as I can, without breaking the rules of honour or conſcience, which I am ſure will never be expected from me, by your lordſhip, nor thoſe whoſe opinions I conſider. While I am here, I ſerve England, *and will with as much care and diligence as I can, endeavour to advance its intereſts, and follow the orders of thoſe that govern it. I reſerve the determination of other points to counſels upon the place.*

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I do not know whether I have erred in my opinion or not, in thinking it more neceſſary for your lordſhip to know what paſſeth now in theſe parts of the world, than formerly; but that hath perſuaded me to give your lordſhip of late more exact relations of my motions, and actions, than before I thought your lordſhip would willingly receive. I am now at the utmoſt point of my journey northward, and have nothing more in my thoughts, than to return into *England* with as much expedition as I can, according to the liberty granted unto my collegue and me, by the council of ſtate. We could not think it at all reaſonable, to leave the work in which we were employed, when we ſaw a certainty of accompliſhing it within a ſhort time, unleſs we had received a poſitive command: now the peace is concluded, I think we may very well juſtify making uſe of that conceſſion. I am here alone, my collegue intended to make the ſame journey, but the gout confined him unto his bed. I look upon all the powers granted unto us, as extinguiſhed by the coming in of the king, and do not take upon me to act any thing as a public miniſter, except it be giving notice unto the crowns of *Sweden*, and *Denmark*, of the reſtitution of the ancient government in *England*, and the proclaiming of the king. Upon this occaſion I accept of a public audience, which is here offered unto me; I ſhould have avoided it upon all other occaſions. I am detained here ſome days longer than I did expect; the queen and ſenate having been out of town when I arrived here. They returned the laſt night. One of the *Holland* ambaſſadors, and *Hannibal Leſted*, lately reconciled to the king of *Denmark*, and now ſent by him to the crown of *Sweden*, came hither the day before me. The government here, have not yet given audience unto either of them; they are not yet reſolved in what manner to perform thoſe ceremonies, but intend to follow the ſame way that was uſed in the minority of the queen *Chriſtina*, and are now buſy in examining that rule. In this particular only they differ, that the government was then adminiſtred only by the five great officers, which are *Rixbroſt*, conſtable, admiral, chancellor, and treaſurer; but the power is now in the whole ſenate, and whatever was then done by thoſe officers, muſt now be performed by them all. When the king died, the places of conſtable, chancellor, and treaſurer, were vacant; by his will he made the prince *Adolphus* his brother, conſtable; the count *Magnus de la Gardie*, chancellor, and one *Fleming*, treaſurer: the firſt will hardly be aſſented unto, by the ſenate, and the other two do not yet take poſſeſſion of their charges, leſt they ſhould diſcontent him. He is retired to a houſe of his own, with ſome mark of diſcontent. I am very civilly invited thither, and as I return toward *Denmark*, intend there to viſit him, it being not above a mile or two out of my way. I ſhall not willingly admit of any other ſtop of my journey homeward, unleſs my

reſolution of returning be altered by new orders from thence. *I do not at all know in what condition I am there, nor what effects I ſhall find of general* Monk's *expreſſions of kindneſs towards me, and his remembrance of the ancient friendſhip that was between us; but the lord* Fleetwood's *letters to the ſenate and private perſons here, mention diſcourſes that he makes much to my advantage. I do receive neither more nor leſs civility here than is ordinary, unleſs the excuſes I receive for receiving no more may deſerve that name. I am in private told, they fear to offend the king by any extraordinary expreſſions towards me: your lordſhip may eaſily imagine how powerful that conſideration will be, when thoſe in my condition can pretend to no civilities upon any other account, but as they are reſpects unto their ſuperiors, and maſters.* I have heard nothing of your lordſhip, more than that you were come to town. I hope you may find all things relating unto yourſelf, according unto my wiſhes, which I am ſure are perfectly ſuitable unto your own deſires. I am

Your Lordſhip's, etc.

Stockholme, June 16, 1660. Alg. Sydney.

I have not this day time to write to my lord of *Northumberland*, for which I deſire your lordſhip to make my excuſe. *Hannibal Leſted* is very ſhortly to come ambaſſador into *England*. The count *Rantzoe* was formerly nominated for that employment, and afterwards *Alefeld* his ſon in law: But now this gentleman hath made the court of *Denmark* believe, that *Bruxells* and *Antwerp* have gained great intereſt in the king, and he is preferred before others. He is pleaſed with this employment, and I am confident believes, he ſhall govern all *England*, not well diſtinguiſhing between the thoughts of a baniſhed prince, who in his youth ſought entertainments to mitigate his afflictions, and the ſerious actions of a great and eſtabliſhed king.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER.

My Lord,

I now write a few lines to your lordſhip in haſte, to congratulate your lordſhip's reaſſuming your former place, in the houſe of peers; I do not know how far your lordſhip is inclined to any other as eminent as thoſe you have poſſeſſed; but from my heart wiſh a ſucceſs equal to whatever you deſire. I have been detained here ſome days longer than I did expect, the queen's being abſent when I came, and ſince that time ſome ſcruples have been raiſed concerning my recreditives. They are now ſolved, and the count *Magnus de la Gardie* (who was formerly treaſurer of *Sweden*; and by the late king, a little before his death, made chancellor) hath been juſt now with me, and doth aſſure me, the queen, and ſenate, have this day ordered, that the anſwer to my creditives ſhould

be drawn according to what I had propoſed; and that they ſhall be ready as ſoon as is poſſible: I intend to ſtay here but a very few hours after the receiving of them. The concluſion of what hath been managed by my collegue and me, muſt be left unto ſuch perſons as the king ſhall pleaſe to employ in it. God be thanked he will find little difficulty; if he can but write his name, he will be able enough for any thing that remains to be done. I have been received here, as I deſired; if I would have had more ceremony, the ſtate would have allowed it to me, but eſteeming my powers extinct, by the king's reſtitution, I did avoid all things of that kind, that could be decently omitted. I find this crown exceedingly well ſatisfied with the peace that is made, and reſolved to perform exactly and handſomely all that was agreed. *England* is looked upon as the ſtate, whoſe friendſhip they deſire more than any in the world, and his majeſty will find by their reſpects unto him, how much they value it. The miniſters employed from hence into *England* are recalled, and a man of quality will very ſuddenly be ſent ambaſſador thither. *My buſineſs here hath gone well enough, if the peace had been concluded a little ſooner, I could not have deſired better. I am uncertain how my actions or perſon will be looked upon at home. I hope I ſhall be able to give a good account of all that I have done here, and for other things I muſt take my fortune, with the reſt of my companions.* The council in their laſt letter to my collegue and me ſaid, that for the future we muſt expect orders from the king, unleſs we did reſolve to return home, according to the liberty formerly granted unto us. We embrace that conceſſion, and the peace being made for which we were ſent, reſolve to return, except we have ſome command from his majeſty; if we receive any ſuch, they ſhall be obeyed; nothing elſe ſhall by our conſents retard our return. I am

Your Lordſhip's, etc.

Stockholme, June 23, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have this day received the news of the king's entry into *London*, and of your lordſhip's being choſen one of his majeſty's council. I do not know how much this firſt ſtep may conduce to reſtore your lordſhip to the honours you have formerly held, nor how far you deſire to make uſe of ſo favourable an occaſion; I only wiſh, all may ſucceed according unto your own choice and deſire. As ſoon as the peace was here concluded, my collegue, and I, ſent an expreſs with the news of it, and a letter to the king, incloſed in one unto my lord of *Northumberland*, not knowing that your lordſhip was then in town. I appointed him to make all the haſte he could, and he thinking to do ſo, choſe the way by ſea from

Hamburgh, and was by contrary winds detained in the *Elbe*, much longer than was for our convenience that ſent him. I hear two other packets of mine were alſo kept at *Hamburgh*, until his coming; for they being directed to Mr. *Thurloe*, as I had been commanded to do, the merchant who receives my letters there, hearing of his diſgrace, would not ſend them until my own ſervant came; by which means, I believe I ſhall be thought very negligent of writing, at the time that I was moſt diligent. I did hope, that by the time I could return from hence, our meſſenger might have met me with an anſwer unto my letters at *Copenhagen*. I now deſpair of that, and am abſolutely uncertain what courſe I ſhall take, unleſs I find ſome other letters, at my return, that may inſtruct me. Your lordſhip may eaſily imagine, I would be unwilling to ſtay in a place, where I have been long under a character that rendered me not inconſiderable, now that my powers are extinguiſhed, and I am left in a mean condition: and that it is very unſuitable unto my fortune, to continue here with a numerous family, at a great charge, without knowing, whether the bills drawn for monies taken up here, according to our allowance, will be paid or not. On the other ſide, I know the advantage it would be to me, to have new orders from the king, and am unwilling to put myſelf out of a condition of receiving them, unleſs I am thereunto neceſſitated, or know that none will be ſent. *The news I hear from* England, *of public things, is punctual and certain enough, but my friends are ſo ſhort in what particularly relates unto myſelf, that I can make no judgment at all upon what they ſay. Perhaps the truth is, they can ſay nothing to my advantage, and leave me to gueſs at the reſt by public things.* If thoſe letters I ſent by our expreſs, and the others that came into his hands at *Hamburgh*, ſhould be long upon the way, thoſe friends, who may have it in their intentions to aſſiſt me, will not know what it is that I deſire, nor how to oblige me, though they ſhould have power to do it. It is very hard for me to know ſo much as what to aſk of them, when I know not what is proportionable unto that which may be obtained, nor whether I can ſtay in theſe parts, for an anſwer unto my letters, or not. I ſhall therefore conclude what I have to ſay relating to my own concernments, in deſiring your lordſhip, and my lord of *Northumberland*, to do that which you think beſt, according to the preſent ſtate of things, and to ſend me directions how to diſpoſe of myſelf, which I ſhall exactly follow. Whatever is ſent to me, will be beſt directed to Mr. *Samuel Miſſenden*, ſecretary to the *Engliſh* company at *Hamburgh*, where I may find them, if I cannot ſtay at *Copenhagen* until they arrive. Your lordſhip may better know my motions than myſelf, for I ſhall take my meaſures, for ſtaying or returning, juſt according to what I ſhall hear from *England*. My recreditives are now ready, I think I ſhall receive them this day, and may take my leave of this court to morrow. I ſaw a letter lately from Mr. *Sommerdike*, of a freſh date, from the *Hague*, wherein he ſays, your lordſhip is to be ſent governor into *Ireland*; I do not know how much credit to give unto that report, hearing nothing of it from *England*;

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but if that were true, I ſhould not be content to ſtay here, believing, that if I am capable of doing ſervice in any place in the world, it is there, where I have ſome knowledge of perſons, places, and buſineſs; but how likely my ſervice is to be accepted, I cannot at all judge. I am

Your Lordſhip's, etc.

Stockholme, June 27, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

At my return from *Stockholme*, the 8th of *July*, I found ſome letters that gave me more knowledge of buſineſs in *England*, relating unto us who are employed here, than I had formerly received; and in one of them, from Sir John *Temple*, I find your lordſhip is of opinion I ſhould return immediately home, which I did preſently reſolve to do with all the ſpeed I can, waving that conſideration, which for ſome time had detained me, of expecting the return of the meſſenger ſent with the news of the peace, and anſwers to the letters ſent by him. It would perhaps have been better for us to have returned immediately after the concluſion of our treaty; but the buſineſs was ſo imperfect, by reaſon of the diſpute about our ſignature, and granting the guaranty, that we could not think it fit for us to withdraw ourſelves without order, or at leaſt ſtaying ſo long as that orders might poſſibly be ſent, after the account we had given of the ſtate of affairs here, which we, judging according to what we heard from *England*, had little reaſon to think would be refuſed: and I think it was a far greater reſpect unto the king, to ceaſe from acting any thing by powers not derived from him, and to ſtay here, as private men, attending his pleaſure, than on a ſudden, to throw off the buſineſs, and to be gone as in a chaſe. I confeſs, I was not averſe to have returned immediately, but I did more apprehend the being accuſed, as I often am, of precipitation, than the evils that could befal me by my ſtay. The laſt letters we received from the Council, referred us to ſuch further orders as we ſhould receive from the king, and no private letter made any doubt, but that ſuch as were neceſſary would be ſent, if we were not already come away; and knowing what part that Council had in the king's reſtitution, I thought they very well knew his majeſty's mind, and were not likely to differ from him. Beſides, the council gave us order to ſignify unto both crowns, his majeſty's being proclaimed, and invited home to execute the kingly office; which could not be done decently, but by going to *Stockholme*. *I confeſs, I did not think myſelf at all aſſured of being owned, or that new orders would be ſent unto me; but that was rather what I gueſſed upon the general ſtate of things, than grounded upon what I heard from any perſon that I truſted until my return thither.* I had written to your lordſhip the 9th of this month, from *Elſinore*, but the

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poſt went ſo ſuddenly from hence, that all my letters of that date came too late. The ſame day I received a letter from *Powell*, and an anſwer unto ſome ſent by him. I ſhall, with all poſſible ſpeed, obey your lordſhip's command ſent by him, in removing to *Hamburgh*, and from thence into *Holland* or ſome place in *Germany*, where I may lie ſtill a while, and ſee what is to be expected for me. The *Swediſh* commiſſioners here, are buſy in tranſporting their troops; the 8th of this month was the day in which the evacuation ought to have been perfected, and the caſtle of *Cronymburgh* delivered, neither of which is yet done; they ſtill retain that place, and the one half of their army is not yet tranſported. They lay the fault upon the *Danes*, in not providing veſſels for them; there is ſome colour for this, but the truth is, they are glad, upon any pretence whatſoever, to ſtay here as long as they can, to eat up that little which remains in this deſolated country, and to ſpare their own quarters; ſo that whereas they were obliged to furniſh a good number of barks for their own tranſportation, they have not brought one, but leave the burthen wholly upon the *Danes*; fill many of the barks, provided for the troops, with the goods plundered in the country, and have, yeſterday, made them pay 1500 ducats in money, for the tranſporting two *Finland* regiments, alleging no other reaſon, than that if they had it not, they would not remove from hence. The *Swedes* have ſtrained themſelves to the uttermoſt, to ſatisfy and retain their *German* troops, in giving good conſiderable ſums of money to the officers, and to every horſeman four rix-dollars in money, and twelve *Dutch* ells of cloth; this, in another country, would be a ſmall matter, but here it is thought a profuſe liberality, yet that doth not ſerve; there is near two thouſand of them who have left their colours, and lie about in the woods, and faſt places of this country, robbing and killing all that come into their hands, profeſſing they will rather ſuffer all things, than go into *Sweden*, from whence they can never hope to return; the beſt thing that can be expected for them, is the war with *Muſcovy*, which they abhor, more of their number being likely to periſh by famine, before they can paſs the vaſt deſerts that lie between the *Swediſh* territories and *Muſcovy*, than by the ſword, when they are entered into it. Theſe *German* troops were fourteen regiments of horſe, of eight companies in each, which are now reduced to eight regiments, conſiſting each of four companies, and they about four ſcore ſoldiers beſides officers. Penſions are given to all the reduced officers; a thouſand crowns the year to a colonel, 500 to a lieutenant-colonel, 250 to a major, little conſideration is had of the inferiors. Thoſe retained are for the moſt part tranſported, and quartered in the provinces ceded by *Denmark* in the *Roſkyld* treaty and this lately concluded, which is a direct violation of it; for the Gentlemen and others are to enjoy all the privileges which they had formerly under *Denmark*, and none is more certainly known to belong to the gentlemen of *Schonen*, and thoſe other provinces, than that no ſoldiers ſhould be quartered upon them, or their boors, which comprehend all

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the country, except the lands belonging to the crown, and they being now annexed to the crown of *Sweden*, one may be ſure will be well enough preſerved, and the whole burthen lie upon others. The *Swediſh* commiſſaries reſerve the troops of their own nation, and the *Finlanders*, to be the laſt tranſported, and then ſent into their quarters in the ſeveral provinces, which by the ancient conſtitution of that kingdom, are ſo well diſtributed, that in time of peace there are twenty-three regiments of foot, and eight regiments of horſe, the one of twelve hundred, and the others fifteen hundred men in each, with no more charge to the crown than ſix dollars a year to a horſeman, and one to a foot ſoldier; to be ready at all times to be employed whereſoever there is occaſion; and when any man or horſe dies, or is otherwiſe diſabled, another is immediately ſupplied, by which means theſe regiments, which they call the immortal, are perpetually kept up in times of peace or war, and this conſtitution is the very nerves and ſtrength of that crown. When I was at *Stockholme*, the ſenate did one thing which hath much diſcontented my fellow mediators and me. The count *d'Vlfeild*, formerly ambaſſador in *England*, had, upon a diſcontent taken at the king of *Denmark*, about the ſame time that *Hannibal Leſted* fell into diſgrace, taken the king of *Sweden*'s party, and did him great ſervice in the firſt war with *Denmark*, and in the concluſion of the *Roſkyld* treaty; after that he fell into diſfavour with the king of *Sweden*, and at the time of his ſecond irruption into *Zealand*, or a little after, was impriſoned by him, and together with his lady, ſiſter to this king of *Denmark*, ſtill kept very ſtrictly. In the time of our late treaty, having reconciled *Hannibal Leſted* unto his maſter, the mediators were deſirous to preſerve *Vlfeild* from ruin alſo, who they knew was intended for deſtruction, there being many frivolous things laid to his charge, and, as they were informed, witneſſes ſuborned againſt him; and though he is moſt certainly comprehended in the general article of amneſty for all things done in relation unto this war, and the articles for provinces ceded by *Denmark*, giving a full enjoyment of all rights, privileges, *etc.* unto all *nobiles ſive ignobiles, eccleſiaſtici ſive ſeculares*, it cannot be denied but that he is under ſome of thoſe characters; nevertheleſs, to avoid all diſputes, we were deſirous to have him put in by name, and did not deſiſt, but upon the deſires of the *Swediſh* commiſſioners, that we would for the honour of *Sweden* rather intercede for him when we went to *Stockholme*, than particularly to nominate him; and a letter was ſent from the queen and ſenate, promiſing that he ſhould abſolutely be reſtored to his liberty, and enjoyment of all he had, upon our requeſt when we ſhould come thither. My collegues not going, I took the ſoliciting of that buſineſs upon me, being fully furniſhed with powers to ſpeak from them as from myſelf; I deſired the performance of the treaty, in relation unto him, and the promiſe made to us. Many excuſes were found, as that it was a diſhonour to their dead king, to releaſe a man whom he had thought deſerved to be puniſhed and impriſoned,

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and that a man of ſuch eminence, might be a dangerous enemy unto their crown, if he were let at liberty, after having been exaſperated by long hard uſage. We thought the alleging of ſuch reaſons, ſomething unſeaſonable after the treaty concluded, wherein he was comprehended, and the promiſe given for his releaſe; and beſides, that the dead king could not be diſhonoured, by releaſing a man in time of peace, whom he had thought fit to impriſon in time of war; nor could any thing be more for their reputation, as themſelves had confeſſed, before the peace was made, than that we ſhould make that our requeſt, which by virtue of the treaty could be enforced; unto which was added, that he who hath been confined to his bed, by a long and as is thought incurable ſickneſs, contracted by this his impriſonment, could in no way be apprehended by *Sweden*; neither was any thing more contrary to reaſon, and juſtice, than to make the injuries hitherto offered unto him, the grounds of continuing them. When I found all this failed, I added, that though I could not ſay, I had any inſtructions from the King, to ſpeak of this, or any other buſineſs, I could as a private man (I pretending then to no public character) inform them, that as I had heard this *Count* had ever, with great earneſtneſs, ſerved his majeſty of *England*, adhered cloſely to his, and the late king his father's party, and was, as I heard, much conſidered by him; that I did doubt, the detaining him contrary to the treaty, and promiſe given, would be diſliked and reſented by his majeſty; and on the other ſide, if his liberty were granted upon this conſideration, I would wave all others, and endeavour to repreſent it, ſo as his majeſty might receive it, as a kindneſs and civility ſhewed unto himſelf: *but all is in vain, he is very rich, they have a mind to feed ſome hungry ſoldiers and courtiers with his eſtate*; and I am afraid that if his majeſty doth not interpoſe his authority, they will make a prey of him, which I do deſire your lordſhip to repreſent unto his majeſty. I confeſs, the alleging of the laſt argument, might look ſomething ſtrangely from me; but I did not care, if I could have done the buſineſs by it. I believe your lordſhip, and many other lords of the council, may very well remember this perſon, who is certainly of eminence, to deſerve protection in his misfortune; his ſufferings have been a full propitiation for his errors; his own maſter, who was moſt offended by him, pardons him, deſires his liberty, and I do not think, there is one perſon in all theſe parts, that doth not pity him, unleſs it be thoſe that gape for his confiſcation. The *French* ambaſſador hath the ſame ſenſe of this, that I have, and doth promiſe to repreſent it, in the ſame manner, to the court of *France*. His diſcourſes are much more hard of it than mine, though, perhaps, in tenderneſs of the *Swedes*, his relations will be more gentle. I think myſelf obliged to add a few words of a thing, concerning myſelf, which I hear is much ſpoken of at *Whitehall*; which is, that in this treaty, I have ever leaned too much to the party of *Sweden*, and been too hard againſt *Denmark*, of which, perhaps ſome part may be true; but this is true alſo, that my conſtant

orders were, to uphold the king of *Sweden*'s intereſt, as much as I could; and by the laſt orders, that I received from the council in *April*, were to endeavour to procure for the duke of *Holſteine*, the full beneſit of the *Roſkyld* treaty; which is the point that pincheth the moſt of any upon the king of *Denmark*, as he himſelf hath told me, with ſome kind of complaint. Beſides, my buſineſs here was, to procure the peace, and to be againſt whoſoever refuſed it, upon the terms agreed at the *Hague*. The laſt ſummer, the ſtop was plainly upon the *Swediſh* ſide, and I did ſo preſs then upon them, that I had hot diſputes with general *Montague* about it, which made us part upon unfriendly terms; but it is certain, that the king of *Sweden*, a little before his death, did incline to peace upon thoſe terms; ſince his death, the ſenate have wholly aſſented unto them, the ſtop hath been only on the *Daniſh* ſide; and at the laſt, though I did oppoſe the *Hollanders*, who would have impoſed Mr. *de Wit*'s orders upon *England*, *France* and *Sweden*, I did obtain the abſolute releaſe of the 400000 dollars for *Denmark*, and ſeveral other conditions more gentle for that king, than thoſe contained in the agreements of the *Hague*, or in the project, which was preſented and preſſed by the *Hollanders*; which will appear, by a note I have, of the particular points, as they were all accorded by the *Swediſh* commiſſioners, before the ambaſſador of *France*, my colleague, or any of the *Hollanders* knew one word of them; which I did to make ſhort work with the treaty, and made uſe of the *Hollanders* ſtop of the *Swediſh* ſhips, to gain their conſent; which I deſire your lordſhip to make known, as you ſhall have occaſion, or find it neceſſary, there not being one tittle, that I will not make appear to be exactly true. I muſt alſo confeſs, the king of *Sweden* had ſuch qualities, as I did love and admire, though I knew his errors alſo. I had inclinations to ſerve him, as far as my orders gave me leave, and did think it would be a great honour to me, to do a thing, which ſuch a prince ſhould acknowledge to be an obligation; he did expreſs a ſenſe of it, with kindneſs, four hours before his death, which I thought did the more oblige me to continue the ſame good offices unto his ſon; which I hope neither his majeſty, nor any other well deſerving perſon will think an error in me, though the *Hollanders* do repreſent it, with all the bitterneſs they can. They pretend favour to *Denmark*; but the true reaſon of their choler againſt me, is, that I did oppoſe them in the buſineſs of *Drontheime*, and *Gluckſtad*, which they would have extorted from *Denmark*, upon pretence of their charges in this war; as well as their other deſigns againſt *Sweden*, which are ſo prejudicial unto *England*, that I ſhould have been a very ill ſervant to my country, if upon friendſhip and familiarity, that I had had with their perſons, I had not thwarted them. I have troubled your lordſhip with a long letter; but the nature of the things I mention is ſuch, as I hope will perſuade you to pardon me for giving you this trouble. I am

Your Lordſhip's, etc.

Copenhagen, July 14, 1660. Alg. Sydney.

I ſhall yet add this, that if his majeſty is not yet ſatisfied with what hath been done for *Denmark* by us here, there is a preſent occaſion of obliging extremely that crown. By the agreements of the *Hague*, *Sweden* was to retain all the places and provinces, granted by the *Roſkyld* treaty, except *Drontheime*. Amongſt others, there was the iſland of *Borneholme*, which had revolted from the *Swedes*, and killed their governor of that nation, upon the engagement of the king of *Denmark*, never to deſert them, nor to ſuffer them to return unto the dominion of *Sweden*: nevertheleſs, according to the ſaid agreement, the *Swedes* were to have it delivered to them; and the king of *Denmark*, to gain the aſſiſtance of *England* and *Holland*, had obliged himſelf thereunto; which went ſo much againſt his heart, that I believe, he would have ſuffered much, rather than to have performed. To eaſe him of that trouble, we propoſed an exchange of gentlemens lands in *Schonen*, to be given to the crown of *Sweden* for *Borneholme*, and the king of *Denmark* to ſatisfy the proprietors; the time reſerved, for making the agreement, was until *Midſummer* come twelvemonth, but it is made already; the king of *Denmark* is to give as much land as comes unto about one hundred and thirty thouſand pounds ſterling. Now if the king deſires to uphold the intereſt of *Denmark*, I am very well aſſured, he may cauſe this land to be remitted, and the way is this; both parties will ſue to his Majeſty, for the ratification of the treaty here, and the guaranty; which he is in no kind obliged to give, and may refuſe unto *Sweden*, unleſs the land to be given for *Borneholme*, be remitted, as a thing extorted from *Denmark* in its weakneſs. If that is not enough, his majeſty may make a defenſive alliance with *Denmark*, to aſſiſt that crown, if it be invaded by *Sweden*, or any other; and becauſe there may be many breaches of the treaty, which do not amount unto an invaſion; there may be a clauſe particularly inſerted, which may have the force of a guaranty of this treaty unto *Denmark*, which will be a very uneaſy poſture to *Sweden*, to find *Denmark* ſecured by the guaranty, and itſelf excluded. Beſides, as this treaty doth not give much ſatisfaction in *Holland*, they will be glad of a pretence, not to ratify the guaranty given by their miniſters (there cannot be a better, than to follow the example of *England*) and would be glad of any occaſion to preſs hard upon *Sweden*; beſides, that as things now ſtand, they will do any thing, that his majeſty ſhall deſire, and both together will obtain from *Sweden* whatſoever they pleaſe; the ſenate knowing very well, that if *England* or *Holland* be againſt them, and the other not for them, they will be in great danger of loſing whatſoever they hold, on this ſide the ſea. I do not only propoſe this, but will pawn my life and reputation upon it, that if his majeſty will give me the powers that are requiſite, I will effect it; and if his majeſty is not contented with this, I have diſcovered ſo much of the affairs of theſe parts, that if your lordſhip do command me, I will ſhew the way, how to drive the nail a good deal farther, and not ſtop, until you ſhall ſay it is enough; and that which will help us in this buſineſs, is the opinion *Sweden* will have that there is an intention of quarrelling with them, for which they know, they

have

have given occaſion enough, ſince the peace was concluded; and upon any terms, they muſt avoid that. I will either ſtay for an anſwer unto the letters I write at this time, or not, according to what I ſhall hear from your lordſhip, and my other friends, when I come to *Hamburgh*.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

My colleague and I did take our leaves yeſterday, of the king of *Denmark*. He is now ready to embark for *England*. According to the directions, I have received from your lordſhip, I am taking my way by *Hamburgh* and *Holland*. I do not yet very well know, in what place I ſhall ſtay, until I hear farther from *England*. I did hope that upon ſuch occaſions as thoſe, that have lately befallen me, your lordſhip would have been pleaſed to ſend me ſome commands and advices, how to diſpoſe of myſelf, more particularly than by ſuch a one, as I had ſent over with letters. My colleague will inform your lordſhip of as many particulars as you will be contented to know. I ſhall from *Hamburgh* give notice where I will be, until I hear farther from *England*. I am

Your Lordſhip's, etc.

Copenhagen, July 22, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I did the laſt week write unto your lordſhip from *Hamburgh*. I am now advanced four degrees ſouthward to *Frankfort*. Whilſt my employment in *Denmark* and *Sweden* did continue, I could ſometimes give your lordſhip account of buſineſs; I can now ſay little more than of places. Whilſt I paſs unknown, all things are unknown unto me; beſides the want of language hinders me from converſing with thoſe ordinary people I travel with. This want hath ever ſince I left *England*, forced me to make uſe of *French* and *Latin*, whereby I have recovered ſomething of what I had forgotten of the one, and learnt a little more than I knew of the other; the firſt ſerves me amongſt perſons of quality; the other helps me to the converſation of prieſts, who, in all the countries that I have paſſed through, are the moſt ignorant people that ever I met with of that profeſſion, excepting that moſt of them ſpeak a little *Latin*. The moſt eminent men amongſt them learn to underſtand *Engliſh*; their libraries are full of *Baxter*, *Burroughs*, and other *Engliſh* puritan ſermon books, and out of them they preach. I was acquainted with one *Brokman*, in *Denmark*, who had been in *England*; he hath all the books of that kind, that I think have come out theſe twenty years; knows nothing but what he learns by rote out of them, and by their help is grown ſo eminent, that about two months ſince, he was promoted to

the beſt biſhoprick in *Denmark*, next to that of *Roſkyld*. The town of *Hamburgh* is exceedingly encreaſed ſince your lordſhip ſaw it, and the fortifications upon which they were at work then, and five and twenty years after it, are now perfected, and as is ſaid are now as good as any in the world. I never ſaw any thing like it. The beſt that are in *Italy*, which are ſo highly commended, look like lines caſt up in a night, to defend a camp, in compariſon of theſe. It conſiſts of one and twenty bulwarks, all alike, except four towards a marſh, encompaſſed by the *Elbe*, where an enemy can neither land, lie, nor make any approach. They are leſs, the others of the full proportion of *Le Grand Royal*. Two of them have caſemates of earth, which though of faſcines, are thought to be the beſt. Between every pair of baſtions, and before each port, are very good ravelins. In the moſt ſuſpected places are two horn-works, the one ſingle, the other double. They have a vaſt proportion of artillery, ammunition, victuals, and all things neceſſary for a long ſiege. That they abhor war, their motto is, *Da pacem domine in diebus noſtris*. Whenſoever they are frighted, they will buy their peace. The king of *Denmark* knows it, and if I am not miſtaken, prepares to get a good ſum of money from them. *Lubek* decays daily, *which is by all men attributed to their ſtiffneſs in matters of religion, in admitting none to live amongſt them but Lutherans*. That town is ſtrong, but not like *Hamburgh*. I left the queen *Chriſtina*, at *Hamburgh*, with a deſign of going into *Sweden*, before the time of the diet, which is to begin the 22 of this month, at *Stockholme*. She is thought to have great deſigns, of which every one judges according to his humour. Some think ſhe will pretend to the crown, others that ſhe would be contented with the regency; and there doth not want thoſe that ſay ſhe is employed from *Rome*, to ſow diviſions in *Sweden*, and to make uſe of the prince *Adolph*'s diſcontent, others to marry him. I have converſed a good deal with her, and do not believe a word of all this. She hath a great averſion to the prince *Adolph*, thinks him not to be truſted with any thing, nor capable of any great buſineſs. When ſhe reſigned the crown, ſhe did publicly adviſe the ſenate not to admit that prince unto the crown, in caſe his brother ſhould die without ſons, he being unfit for government, of an evil nature, and of underſtanding no ways able to bear ſuch a weight; upon which, by an act of the ſenate, confirmed by the ſucceeding diet, it was declared that the crown ſhould deſcend only to the heirs male of the king's body, and thoſe failing, the power of election to revert unto the ſenate and diet. This is the obſtruction unto prince *Adolph*'s pretenſion to be conſtable, leſt, that he having the power of the militia in his hands, might either attempt ſomething to the prejudice of the young king, or if he died, ſtrengthen his own pretenſions. Notwithſtanding this, he did write to the queen *Chriſtina*, earneſtly endeavouring to engage her, and offering great ſervices, if ſhe would favour him. The contents of this letter were reported to me, and I ſaw the anſwer, which if he is not abſolutely out of his wits, will take from him all hope of advantage from her. A

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day or two before I came from *Hamburgh*, talking with her of the opinions people had of her pretenſions to the crown or regency, ſhe told me plainly, *there was but one place for her in* Sweden, *and having reſigned that, ſhe could neither pretend again unto it, nor content herſelf with any other.* I do not believe this barely becauſe ſhe ſaid it *(for I am in this year's employment grown much leſs credulous than I was)* but becauſe the impoſſibility of effecting any thing is ſo plain, that ſhe who hath a great deal of wit, and as good councel as any is perhaps in *Europe*, cannot but ſee it. For beſides the averſion that is to her religion, and the little appearance that the jealous *Swedes* would give credit to her change, if ſhe left it, the ſenate and nobility like no government ſo well, as while the kings are in minority; for now they have the power in their own hands, whereas before they depended on the will of a king, and will more hardly be brought to innovate any thing perhaps, than when their laſt king was living. Theſe and many other reaſons, do convince me, that her only buſineſs is to procure of the diet, the ſettlement of her yearly revenue of two hundred thouſand dollars, reſerved at her reſignation, of which for theſe laſt four years ſhe received but the tenth part; and this being done, to return to *Rome*, where ſhe had great deſigns, of which I may ſpeak more hereafter; and there ſhe intends to live and die. The *French* ambaſſador hath orders to ſerve her as much as he can, and ſhe hath been perſuaded to ſtay at *Hamburgh*, until he could have an anſwer to the letters he wrote to *Stockholme*, concerning her reception; which caution was very neceſſary; for though all the principal perſons of the ſenate, owe their fortunes to her; no man can undertake, that if ſhe ſhould go thither, without ſome engagement for her ſecurity, ſhe may not paſs the reſt of her life in ſome caſtle of *Sweden*, inſtead of her palace at *Rome*. The firſt country that I entered in my paſſage from *Hamburgh*, was the duke of *Lunenburgh*'s. It extends itſelf above twenty *Dutch* miles in length, that way which we came, but is extremely barren in all reſpects, as bad as the worſt part of *Sweden*; nothing is there to be ſeen, but heath, ſand, and bogs, little graſs, and leſs corn. He hath ſeveral fortified places, but none good; and *Zell*, the place of his reſidence, is no whit better than the reſt. There are of that family, four brothers, two by one wife, and two by another. The eldeſt of each bed, are governing princes. Each of them pay penſions to their cadets. One of the latter ſort, I have known in *Denmark*; he is a papiſt, and pretends to a red hat. The other married the princeſs *Sophia*, and being a man of better parts than the others, doth govern them much for the preſent, and is likely to inherit all their ſtates, they having no children. From thence we came into the territory of *Brunſwick*, which is a very good country, very like the beſt parts of *Huntingtonſhire*, but the people are poor and miſerable; the devaſtations cauſed by the long war not being yet recovered, of which, I think, the principal cauſe, is the princes continuing in time of peace, the ſame burthens that were laid upon them by the ſoldiery. The buildings in each of thoſe countries, are poor, beggarly, and turn black.

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and foul with ſmoak, which hath no paſſage to go out, but what it finds through chinks and crannies. *Mondagh* and *Northolme*, principal towns of this territory, deſtroyed by *Tilly*, in the war in the year 1622, when the duke of *Brunſwicke* ſided with the king of *Denmark*, have not yet recovered themſelves. The old duke is ſtill living, being now fourſcore and three years old. Our next remove was to *Caſſel*, the reſidence of the *Calviniſt* line of the landgraves of *Heſſe*. The caſtle doth overlook a river like unto the *Trent* at *Nottingham*, and a plain towards the ſouth, like unto that which lies between *Nottingham* and *Leiceſter*. On the north is a gentle riſing ground, of a very good ſoil, for about a mile; the ſight that way is terminated by ſteeper hills, and woods, which extend three or four *Dutch* miles. The town is diſtinguiſhed into two parts both very ſtrong, eſpecially that which they call the *new*. The greateſt fault I find in the works is, that the falſe braye, which ſhould overlook the counter-ſcarp, and defend that and the country beyond it, is ſo low, as to be of no uſe but to clear the ditch. There are alſo old faſhioned caſemates of ſtone, as low as the falſe braye, which, as I think, are of no uſe at all. From thence we entered the other part of *Heſſe*, governed by the *Lutheran* line of the landgraves, under the name of *landgrave* of *Armeſtat*, of the ſame family as the others. I ſaw nothing there that was remarkable. The towns are poor and ill fortified; the land generally is not very fertile; but clean, pleaſant, and very well furniſhed with ſprings, rivers, and woods. In paſſing through all theſe countries, I do not ſee many gentlemen's houſes. Moſt of them are ſeated upon extreme ſteep bleak rocks, which, they ſay, are exceeding ſtrong, but of little uſe, more than being ſafe in them, they not being of extent to keep any conſiderable garriſons, and that only of foot. Many of them are hardly acceſſible for one horſe, and incapable of receiving or maintaining many, though they were. I did not ſee any thing of neatneſs or handſomeneſs about, or in any houſe in all thoſe countries. The people ſeem generally fierce, harſh, and rude, much more than the *Swedes*. Whether that temper is natural unto them, or grown by the cuſtom of doing and ſuffering miſchiefs in the time of the war, I am not able to judge. The women have generally tanned ſmoky faces; motions and actions more ſuitable unto our ſex, than theirs, which may be cauſed by their ugly dwellings, poverty, and perpetual labour. All things belonging unto huſbandry are performed by them. Our next ſtage was to *Friburgh*, an imperial city, that retains ſome marks of having been conſiderable, but never recovered the deſtruction brought upon it by the *Imperialiſts* and *Spaniards*, who, without any provocation, thought fit to make that town a companion in miſery and deſolation with their neighbours of the *Palatinate*, when it was ruined. About three *Dutch* miles from this town, begins the territory belonging unto it, rich and pleaſant, beyond any I have ſeen in *Germany*. Here are the firſt vineyards that we have met with, except two or three little ſtraggling ones in the *Landgrave* of *Heſſe d'Armſtat*'s country. The air and climate is here much more ſweet and gentle than

the others that we have paſſed through, which is ſeen by the fruits that are in great abundance, and good, but of no kind that is not ordinary. The wine made here to me ſeems good; but it is ſmall and deſpiſed by the good drinkers, who content themſelves with none but that of the *Rhine*. This town is great and fine, and when the works are perfected, will be very ſtrong. They work very hard upon them, and, it is thought, this year and part of the next ſummer will complete them. I was yeſterday informed by ſome perſons of quality, that ſir *Kenelm Digby* had been here for many months, and went from hence about a year ſince. He went under the name of earl *Digby*, admiral of the *Britiſh* ſeas, and chancellor to the queen of *England*, beaten out of his country, with the reſt of the king's party, of which he had been. He cauſed his book *De corporibus*, or *De immortalitate animi*, and ſome others, to be here printed; and pretended to be the firſt inventor of the ſympathetical powder, and magnetic cures of wounds and diſeaſes. When he went from that town, he took upon him another perſonage, and paſſing through places in alliance with *Sweden*, pretended to be an ambaſſador of that crown into *England*, and was believed, until one of the counts of *Lionhead*, a man of one of the principal families in *Sweden*, who lies now in this houſe, and told me the ſtory, did rectify the miſtake; informing them, that the king of *Sweden* did uſe *neither to employ ſtrangers, nor papiſts in embaſſies*. I do not know whether your lordſhip will be patient of the trouble of theſe letters; but I know nothing but ſuch ſtuff as this, and nothing better can be expected from me, in the condition in which I now am. I ſhall ſtay here as long as I can without loſing the ſeaſon of paſſing the *Alps*, and ever be,

Your Lordſhip's, etc.
Alg. Sydney.

Franckfort upon Main,
Sept. 8, 1660.

When I was in *Denmark*, I received many curtiſies from Mr. *Myſſenden*, ſecretary to the *Engliſh* company at *Hamburgh*; and when I came to that city, I lay in his houſe. He is deſirous to be employed by the ſecretaries of ſtate, to give intelligence of what he can learn of the affairs of *Germany*, *Denmark*, or *Sweden*. Mr. *Avery* had the ſame office, and before he was reſident for the king, was employed in the ſame work. He is a diſcreet man, of good parts, ſtudied well, bred a lawyer, hath good credit both with his countrymen and others where he lives. *I had promiſed this employment for him, under thoſe that formerly governed, but that he was too monarchical for me and my brethren.* If your lordſhip, by means of the ſecretaries, or otherwiſe, as you ſhall think fit, would prefer him, you ſhall do me a very great favour. I am obliged to him, and know not how to recompence him. I dare engage my credit to your lordſhip, he is fit for the work, and will be contented with any ſalary that ſhall be given. If any friend of his waits upon your lordſhip, I deſire you will be pleaſed to favour them, and let them know what I have written for him.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I think the counſel given me by all my friends to keep out of England *for a while, doth too clearly appear to have been good, by the uſage my companions have already received, and perhaps will be yet further verified by what they will find. Nothing doth ſeem more certain to me, than that I muſt either have procured my ſafety, by ſuch means as ſir* Arthur Haſelrig *is ſaid to have uſed; or run the fortune of ſome others, who have ſhewn themſelves more reſolute.* I hope my being here will in a ſhort time ſhew, that the place was not ill choſen, and that, beſides the liberty, and quiet, which is generally granted to all perſons here, I may be admitted into that company, the knowledge of which will very well recompence my journey. I was extremely unwilling to ſtay in *Hamburgh*, or any place in *Germany*, finding myſelf too apt to fall too deep into melancholy, if I have neither buſineſs, nor company, to divert me; *and I have ſuch an averſion to the converſation, and entertainments of that country*, that if I had ſtaid in it, I muſt have lived as a hermit, though in a populous city. I am here well enough at eaſe, and believe I may continue ſo. Unleſs ſomebody from the court of *England* doth think it worth their pains to diſturb me, I ſee nothing likely to ariſe here to trouble me. I have already viſited ſeveral cardinals. To morrow I intend to pay the ſame reſpect to the cardinal *Chigi*, nephew to the pope. He hath already granted me the liberty of waiting upon him, which was ſignified unto me by another eminent perſon of the ſame robe and degree. They are all generally civil, and I aſk no more. About ten days ſince, young ſir *Thomas Gage* came to this town, and died of a fever a few days after. He is this day to be buried, by the care of his younger brother, in the *Engliſh* jeſuit's chapel. I do not here ſee thoſe ſigns of eaſe, ſatisfaction, and plenty, that were in pope *Urban*'s time. But that little concerns ſtrangers; *the company of perſons excellent in all ſciences, which is the beſt thing ſtrangers can ſeek, is never wanting.* Nevertheleſs, there is not perhaps ſo many of thoſe, as formerly; for the hopes of preferment, which uſually drew them hither, is ſomething ſhortened, by drawing all principal benefices into a few hands, and charging the others with too heavy penſions, ſo that now biſhops are often ſought, more than biſhoprics. The moſt eminent perſons, that I have yet ſeen, are the cardinals *Pallavicini*, (who wrote the ſtory of the council of *Trent*, in anſwer to that formerly written by *Padre Paolo*) *Azzolini*, and a *Carmelitano ſcalzo*. I have found few perſons that I can think equal to them. I find none of the *Engliſh*, whom I knew when I was laſt here, now alive, except father *Courtney*, then rector of the jeſuit's college, now *Penitentiero di San Pietro*, and he is ſick, old, and decrepit. Mr. *Somerſet* is ſtill here, a canon of *San Pietro*, but little eſteemed. Cardinal *Franceſco*

Franceſco Barbarini is very little changed ſince I formerly ſaw him. Though he is old, he is ſo freſh and ſtrong, as to be likely to live many years. As many as I live, I ſhall be

Your Lordſhip's, etc.

Roma, Nov. $\frac{19}{29}$, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

Though it is long ſince I heard from your lordſhip, and the contents of the laſt letter I received were ſuch, as gave me little expectation of having others, or reaſon to think mine would be acceptable unto you, I eſteem it my duty to continue writing, until I do by ſome more indubitable teſtimony find your lordſhip hath ſo far rejected me, as to be unwilling to hear of me, or my concernments. I have at this time very little to ſay of either. I choſe this place, as that wherein I might moſt certainly diſentangle myſelf from all buſineſs. I ſought nothing here but reſt, and good company. I find reaſon to hope, I may enjoy the one without moleſtation, and *I do not know, whether any place in the world doth afford the other in greater perfection, than that which I here meet with.* I deſire to know whether your lordſhip hath the hiſtory of the council of *Trent*, written by *Padre Sforza Pallavicini*, in anſwer to that which goes under the name of *Pietro Soave*. If you have it not I will ſend it, and, if your lordſhip pleaſe, will make a collection of ſuch other books, as are moſt eſteemed here, and I can gueſs will be moſt agreeable unto you. No work that hath come to light, ſince that of the cardinal *Baronius*, is thought fit to be preferred before this of *Pallavicini*. It will be an ornament to your library, as the author of it is to the conſiſtory. Others of the ſame order receive an addition of honour from the purple conferred upon them, he confers honour upon the purple by receiving it. His perſonal merit adds luſtre unto his dignity, and every one doth confeſs he deſerves to advance one ſtep further, unto that only ſeat which now is above him; but the name of a *Jeſuit* doth for ever exclude him. The extraordinary ambaſſador of *Spain*, doth ſtill eagerly ſolicit the deciding of that queſtion, which hath been ſo long diſputed between the *Scotiſts* and *Thomiſts*, whether the Virgin *Mary* was exempted from the ſpot of original ſin. This is his only buſineſs, he is only her ſolicitor, and meddles not with any buſineſs of ſtate. About a fortnight ſince he preached publicly upon this ſubject, at the church belonging to the *Padri dell'Oratorio*. All that order, the *Franciſcans*, and moſt of the *Jeſuits*, join with him, in favour of the Virgin. The *Dominicans*, and other *Thomiſts*, oppoſe the deciſion of this point, deſpairing of having any in favour of their ſchool, and think it advantage enough for them to hinder the victory of their adverſaries. That party is thought will prevail, the

pope, and conſiſtory, not undertaking to determine a controverſy, that, after long diſpute, was thought too difficult for the council of *Trent*. The king's piety, and miniſters zeal, are both commended, and ſo the buſineſs is like to reſt.

I do not hear that Mr. *Colbert* *, ſent hither by the king of *France*, to ſupport the intereſts of the dukes of *Parma* and *Modena*, is likely to have any great ſucceſs; nor is his perſon very acceptable, that hath no other buſineſs here, but to ſolicit buſineſſes very prejudicial to the church. The firſt is upon a diſpute concerning the dutchies of *Ronciglione*, and *Caſtro*, in which caſe there is already a decree paſſed in *Ruota*, whereby they both devolve unto the *Camera Apoſtolica*, if not redeemed within a certain time, now within three or four days of expiring. The other is, concerning the *Lago di Como*, in *Lombardy*, ceded unto the church by *Ferrante d'Eſte*, with the dutchy of *Ferrara*, as the duke of *Modena* pretends, for a certain ſum of money ſpent in the war, which, by the revenue of it, is long ſince paid: But it is here ſaid, that the ſeſſion was abſolute, *nomine poenae et in partem mulctae*, for the unjuſt uſurping, and detaining of the ſaid dutchy, which, as a feud of the church, did devolve unto it, by the extinction of the maſculine and legitimate line of the dukes that held it. Many arguments are uſed on both ſides in theſe two controverſies; and to all thoſe that are alleged in favour of the two dukes, the pope doth uſually anſwer coldly, that he muſt keep all, of which he finds

* At *Rome*, he acquired his taſte in the polite arts, in *Holland* his ſkill in manufactures and commerce, to the amazing benefit of his country, and the *genuine* honour of his maſter; nor were the perſecutions, dragoonings, maſſacres, practiſed in *France* till after his death.

———Fino da i tempi del *Boccaccio* uſarono i *Fiorentini* avere ai loro ſtipendj uomini dotti, e artefici eccellenti; ſia per compagni nella *amenità* de i loro ſtudj, come per l'educazione delle loro famiglie.

Coſimo dei Medici, detto Padre della Patria, ebbe l'Arciropolo e Marſilio Ficino, uomini dottiſſimi, e ſpecialmente nelle lettere greche.

Piero ebbe Leonardo Aretino, il Poliziano e il Poggio. Lorenzo ebbe il Laſcari, il Tarcagnotta, il Gaza, Giorgio di Trabizonda, Franceſco Filelfo, e finalmente Michelangelo, il quale conduſſe la Pittura, la Scultura, e l'Architettura a quella perfezione, a cui Giotto, Donatello, e Brunelleſco le avevano incaminate.

E Leon X, figliolo di Lorenzo, fu, quanto al favorire i Letterati e Profeſſori di qualunque arte liberale, l'Auguſto de i tempi ſuoi.

Queſto *ingenuo luſſo* di mantenere nelle famiglie dei Grandi, come dei privati Cittadini, ſoggetti coſpicui, *ſi è ſempre coſtumato dal primo riſorgere delle belle diſcipline, ed ancor ſi coſtuma per tutta Italia.* E quello che è più mirabile, lo coſtumarono anco Donne d'alto affare, come la famoſa Marcheſa di Peſcara, la Marcheſa del Vaſto, la Conteſſa Gambara, la Ducheſſa di Urbino, prima Protettrice di Raffaele, e molte più, (celebrate dall'Arioſto, e da altri Autori Italiani) *forſe perchè mancava loro quella occupazione, che ſi è introdotta dopo dei Ciciſbei.*

Uſo sì nobile ed elegante fu di poi adottato gradualmente da altre Nazioni a miſura che il ſapere s'andò propagando tra loro; ma da niuno con maggior' fervore quanto dal *Magnanimo* Franceſco I, Re di Francia: e *Colbert*, miniſtro della maggior capacità, ammaeſtrato dai viaggi, ch'ei, *contro il ſolito dei ſuoi compatriotti*, fece per l'Europa, perſuaſe anco Luigi XIIII d'adottarlo.

Decamerone di Giouanne Boccaccio. In Londra, preſſo Giouanne Nourſe, 1762, in quarto.—In the notes, by the learned editor Vincenzio Martinelli.

finds the church poſſeſſed, and will by no means be perſuaded to diminiſh St. *Peter*'s patrimony. He might uſe much better reaſons, drawn from the merits of his cauſe; but to avoid the trouble of many words he uſeth theſe, and leaves the intricate diſputes unto his miniſters. The cardinal *Chigi* received *Colbert* without any demonſtration of kindneſs, or reſpect, hardly performing thoſe ordinary civilities, which he uſeth to private gentlemen that viſit him without any public character. Thoſe of the *French* faction diſlike this, but that is not very much conſidered. I am,

Your Lordſhip's, etc.

Roma, December $\frac{1}{2}\frac{2}{2}$, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I write to your lordſhip ſometimes becauſe I am not forbidden; not often, becauſe I am neither commanded, nor have reaſon to think that diligence would be acceptable unto you. Here is news enough for thoſe that ſeek much, very little for me that ſeek none. The buſineſs of *Parma* is now decided; the pope hath declared it to be eſcheated to the *Camera Apoſtolica*. Many here thought ſome way would have been found to inveſt one of the nephews with thoſe dutchies. The generoſity of that omiſſion is much applauded. His holineſs hath not appeared publicly at any of the ceremonies this *Chriſtmas*. Some ſay he is really ſick to ſuch a degree, that within a ſhort time another ſucceſſor muſt be provided for St. *Peter*. Others think it is only unwillingneſs to be ſolicited in the buſineſſes of *Parma* and *Modena*, in which he is reſolved to do nothing. I believe the latter opinion is the trueſt, unto which may perhaps be added a good meaſure of melancholy, from which evil the triple crown doth not defend him. I went yeſterday with a cardinal to the palace, and with ſome of my acquaintance to the cardinal *Nipote* his *Anticamerâ*, where I ſaw Mr. *Colbert* received with little more ceremony than a private gentleman. At the ſame place I was told by a perſon of great credit, that about four years ſince, father *John Hilford*, a *Benedictine*, did ſhew him an old propheſy, that the king of *England* ſhould be reſtored by a *Monk*, by which I think he underſtood one of his own order, and not the ſurname of a family. The laſt *Sunday* in the *Minerva* was a ſolemn abjuration of the hereſy of one who ſaid he was Chriſt, and had accordingly choſen his apoſtles. After having propagated ſuch doctrine, he had ſo much wit as to retire himſelf into *Germany*, and is now at *Trezen*. His ſtatue was the next day publicly burnt *nel Campo di Fiore*. The ſame day the count *di Mola*, a *Neapolitan*, was produced by the congregation *del Sant' Uffizio*, who being brought up a *Chriſtian*, had turned *Jew*, and induced a nephew and two others of his kindred to do the like. Upon his repentance and abjuration of that religion, he was condemned only to a *prigione formale* (as they call it) for his life; which is a cloſe place

between four walls of about eight feet ſquare, with a little hole open to receive meat; and the changing the ſentence of death unto this, upon his penitence, is termed mercy. His diſciples ſuffer the ſame puniſhment. The diſcovery was made by his own daughter, with whom he denied to give any portion, ſhe having choſen a huſband for herſelf. This *Chriſtmas* here hath been paſſed in various ceremonies, in few of which I have been preſent, finding the curioſity uſual in ſtrangers, to be very little ſuitable to my age or humour. Nevertheleſs I have not omitted them all; particularly I thought the funeral obſequies of *Innocent the tenth*, which are annually celebrated, worth ſeeing, and yeſterday was preſent at them in the pope's chapel, ſeven and thirty cardinals being preſent. I have viſited nine or ten of that order, ſome of them the moſt extraordinary perſons that ever I met with, others equal with the reſt of the world. With ſome I pretend only the performance of a civility, and deſire only a little knowledge of them; with others I ſeek a ſtraiter converſation, and by frequent viſits endeavour to gain it. The two cardinals, *Franceſco* and *Antonio Barbarini*, are very much changed in fortune, little in perſon, ſince I was here laſt. The cardinal *Chigi* is a young man of good countenance, well behaved, pleaſant humour, good wit, but more a friend to pleaſure than buſineſs. *Sacchetti* and *Spada* are the moſt eſteemed for civil prudence, and beſt deſerving to be pope; but the firſt hath been twice repulſed, and the other hath ſuch a multitude of nephews, that though the ſeat were vacant, it is not thought that either of them would be choſen. The moſt learned are ſaid to be *Pallavicini* and *Albizzi*. *Azzolini*, at the age of thirty ſix years hath already gained the reputation of as good a head as any is in *Italy*. He is the chief of the *Squadrone volante*, the principal inſtrument of ſetting the crown upon this pope's head: and according to the phraſe here, his vote is one of the beſt in the college. I do moſt frequently viſit him of any, and have received great civilities from him. I hear from ſome of my friends, that your lordſhip had been deſired to do that buſineſs for me which hath been often mentioned, and that may be eaſily ſettled, upon the compoſure of that with the lord *Strangeways*; and your lordſhip's anſwer was, I had made a proviſion for myſelf, and diſcharged you of that care. If there be no difference in living, but he that hath bread hath enough, I have ſome hopes of finding a proviſion for a longer time than I mentioned. If there be no reaſon for allowing me any aſſiſtance out of the family, as long as there is a poſſibility for me to live without it, I have diſcharged you. If thoſe helps are only to be given to thoſe that have neither ſpirit nor induſtry in any thing to help themſelves, I pretend to deſerve none. Or if ſupplies are only the rewards of importunity, or given to avoid the trouble of being ſolicited, I think I ſhall for ever free you from that reaſon. And as I have for ſome years run through greater ſtraits, than I believe any man of my condition hath done in *England*, ſince I was born, without ever complaining, I ſhall with ſilence ſuffer what fortune ſoever doth remain unto me. I confeſs I thought another concluſion might

might reaſonably have been made upon what I had ſaid, but I leave that to your lordſhip's judgement and conſcience. If you are ſatisfied in yourſelf, you ſhall not receive any trouble from

Your Lordſhip's, etc.

Roma, Dec. 29, Jan. 8, 1660. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

According to my cuſtom, I give your lordſhip this teſtimony of my being alive; which I think neceſſary, ſince your lordſhip gives me no ſign of remembering I am ſo. Letters from hence can be of little other uſe, either to your lordſhip, or me, though I have ſome advantages in converſation, which are not uſually allowed unto ſtrangers. I cannot attain to the knowledge of great buſineſſes, and the little common things are hardly worth relating. I muſt ſend ſuch as I have. The laſt *Sunday* was ſevennight, the pope came to the *Poliſh* church, to aſſiſt at the ſinging of the *Te Deum*, for their great victory obtained againſt the *Muſcovites*. He was accompanied only with guards, and domeſtics. No cardinal was preſent. As I formerly told your lordſhip, there was a belief in town, that he was ſick; but at this time of his firſt appearance, he ſeemed to be ſo well in health, that his former retirement is attributed either to his unwillingneſs to be ſolicited, or his natural melancholy. There are many characters given of him. That which appears to me moſt probable is, that he is a good man, of a gentle nature, free from all vice, even from his youth, little ambitious, or covetous, ſomething too indulgent to his nephews, of a fine wit rather than a great judgment, a great delighter in poetry, hiſtory, and that learning which is here called *belle lettere*; he is much better verſed in theſe, than in deeper ſtudies. From hence was his firſt preferment, upon occaſion of a copy of verſes made by him, in praiſe of *Vrban* VIII, given to *Padre Sforza Pallavicini*, (then jeſuit, now cardinal) and by him ſhewed to the pope, who pleaſed with them, would know the man, then a private gentleman of *Sienna*, and he being brought to him by *Pallavicini*, through a ſimilitude of nature and ſtudies, grew kind to him, perſuaded him to turn prelate, promiſing preferment, and performed it. Now he is attained to the higheſt, he ſhews kindneſs to the family of his benefactor, made *Pallavicini* a cardinal, and is thought more his friend, than to any one of the college. His government is gentle and eaſy, neither troubling his neighbours with great undertakings, nor his ſubjects with too heavy impoſitions. To ſay the truth, they are hardly able to bear thoſe that were laid by his two laſt predeceſſors. The prices of all things neceſſary to life are much increaſed, ſince I was here the firſt time; but temperance is in faſhion; every body lives upon little, ſo that the burden is not ſo great to ſtrangers. Five ſhillings a day ſerves me and two men very well, in meat, drink and firing.

firing. At the time the pope was ſaid to be ſick, *Rome* was full of diſcourſes, who was moſt probable to ſucceed. Many thought *Mazarini*, though there are thoſe reaſons againſt him, that never any other did know how to ſurmount; but his reputation and treaſure are thought to break through all difficulties. The other day, the cardinal *Sacchetti*, who bred him, told me, he did believe him the moſt eminent man for wit and parts, that the world had produced in many ages. The others, who could make the faireſt pretences, are *Sacchetti*, *Spada*, and *Pallavicini*. The firſt two, have been already repulſed in two conclaves, when they were very near being elected; and *Paul* III. is the only man that ever found a way of gaining by a third attempt, that which he failed of in the two firſt. *Pallavicini* is for ever excluded, by being a Jeſuit. Diſcourſes of the others paſs into infinite variety and uncertainty, it being impoſſible to propoſe any one, againſt whom as good reaſons may not be alleged, as againſt five or ſix others. There are two moſt eminent in wit and virtue, *Azzolini* and *Pio*; but the eldeſt of them is not forty years old, which youth cuts off their pretences, for the preſent. I have much more acquaintance amongſt the prelates, than the nobility of this place. The *Urſini*, *Colonni*, *Savelli*, and others of the moſt antient *Roman* families, have loſt all the vigour and virtue of their anceſtors. Their moſt remarkable qualities are now pride, lazineſs, and ſenſuality. I do not find, that thoſe of the other robe want any quality, that makes men eſtimable; and they are ſo far from that looſeneſs of life, of which they have been formerly, and ordinarily accuſed, that I have not yet ſeen any of that order do an indecent thing, nor ſpeak a looſe word; and yet I mark them as narrowly as I can. There is a great alteration in that kind for the better, ſince I was here laſt. Prince *Pamphili* is employing a great part of the treaſure, gained in the time of his uncle's reign, in building three churches; of which one is for the Jeſuits at *Monte Cavallo*. Cardinal *Barbarini* gives a vaſt proportion of what he gained by the like means to the poor, and other charitable uſes. *Borgheſi* is the richeſt of them all, and keeps all for himſelf. The family of *Peretti* is extinct, by the death of the cardinal *Montallo* the laſt year. The eſtate is inherited by *Savelli*. Before I came hither, I did much deſire a recommendation from abbot *Montague*; but things have fallen out better than I could expect, ſo that now I do not need it. If one ſhould be ſent, that is not very different from ſuch as are ordinarily uſed in the like caſes, it would do me much more hurt than good; and if any come to my hands, I will not deliver it. I wiſh, and pray that your lordſhip may obtain all that may conduce to your felicity and peace; and will fail of nothing, wherein I can hope to be ſerviceable unto you, which is no more than the duty of

Your Lordſhip's, etc.

Roma, Jan. 29, Feb. 8, 1660-1. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

About a fortnight ſince, I wrote to your lordſhip; ſince that time, and ſome weeks before, I have been ignorant of all your concernments, thoſe few letters that I receive making no mention of them. This town hath for ſome days been as full of madneſs, as any can be, that ends in things ridiculous and fooliſh, without extending itſelf to miſchievous extravagance. All the ſtreets are full of maſquerades there, every day public comedies, and many in private houſes; but all of them as ill as ever were ſeen. There hath been two moral repreſentations in muſic, the one at the charge of the conſtable *Colonna*; the other, of Don *Agoſtino Chigi*, the pope's nephew, which were very fine, and not to be equalled by any perſon out of *Rome*. The Jeſuits have made many plays in their ſeminary; but they are exceeding cold and dull. The *Quarant'ore*, in which the ſacrament is expoſed, is now at the jeſuits church. They have made the fineſt ſcene that ever I ſaw, to repreſent *Ezechiel*'s viſion of the wheels. Yeſterday, four or five and twenty cardinals were there; the *Padre Urſini*, of that order, preached unto them, pretended to explain the viſion, but ſo faintly, that every body came away unſatisfied. I think, at this inſtant that I am writing, the pope is gone to that church, accompanied with all the cardinals, and doth himſelf ſay maſs; his weakneſs makes him chooſe a private altar, the grand maſs ſung at the high altar, being much longer than his feeble legs are able to bear him. This is the ſixty third year of his age, and there is a ſtrong and general opinion, that he will not outlive it. This is grown from reaſons of very different natures: ſome ſay, that age is the utmoſt period, that is given to the life of extreme melancholy complexions, in which none can exceed him: others gueſs by obſervations drawn particularly from ſeveral accidents of his life, and the preſent ſtate of his health; and there do not want others, who ground their belief upon aſtrological predictions, which ſort of vanities are more credited here, than would be eaſily imagined from a wiſe people. If this prove true I believe he will be little lamented; and much leſs, than if he had died before the *conſiſtory*, on *Monday* laſt, in which there was a tax of ſix in the hundred impoſed upon the annual revenue of all lands, belonging to the church in *Italy*, to laſt ten years, upon pretence of helping the emperor againſt the *Turks*: but people here, are ſo uſed to ſuch fables, that little credit is given to them. Many think, that a bank will be ſuddenly erected upon this credit, and the *Genoeſe*, who are the publicans of *Italy*, will furniſh great ſums of money upon it, and take unto themſelves the levying of the money, for their reimburſement, as the partiſans do in *France*; and being armed with that authority, will according to their cuſtom uſe all the aſperity and fraud, that hath made them deſerve the name, which antiently had a ſignification equal unto *ſinner*,

with

with which it was uſually coupled. It may eaſily be imagined, how this money will be diſpoſed of; if the pope lives, the receivers will eaſily obtain a diſcharge, if he dies, it will be hard to know, who is to be charged with the receipts. Your lordſhip may a little judge what thoughts are uſual here, and with what liberty they are expreſſed, by a little accident. One evening, a company of gentlemen were met together, and to paſs the time, amongſt other things, they choſe to play at queſtions and commands, and theſe two were propoſed: whether the cardinal *Mazzarini*, or Don *Luys di Haro*, had done moſt miſchief to *Spain*: the other, whether *Henry* VIII of *England*, *Luther* and *Calvin*, or the popes nephews, ſince their time, had moſt prejudiced the church. The laſt week, the anniverſary *obſequies* of *Leo the tenth* were celebrated at the *Sapienza*, a college erected and endowed by him; and one Dr. *Gibbs*, an *Engliſhman*, their profeſſor of rhetoric, made an oration in praiſe of him, that was much commended. Here is not one churchman of that nation that is of any eminence, except old father *Courtney*, who hath kept his bed all the winter. Don *Innocenzo Conti*, the principal perſon of all the *Roman* nobility, for wit, valour, and birth, is lately dead; he was lieutenant general of the church, under Don *Mario*, brother to the pope. Some ſay that the cavalier *Mattei*, ſent hither by the emperor, to ſolicit for aſſiſtance againſt the *Turk*, ſhall ſucceed him. A marriage is ſaid to be concluded between the conſtable *Colonna* his beautiful ſiſter, and the *Principe Carboniano*, who is alſo of the ſame name and family. This is the act of the old Cardinal *Colonna*, who, by this means, thinks to unite the two principal branches of his own family, who have not been very friendly to one another; but it gives great diſtaſte to the young abbot *Colonna* her brother, who hoped for a red cap, by marrying her into the pope's family; and gives little ſatisfaction to the young lady, who finds nothing in her gallant, that pleaſeth her, except his name and quality. There are ſeveral preparations at *Florence*, to receive the princeſs, that is to marry the young duke. I hope your lordſhip will pardon me, for troubling you with ſuch ſtuff, as this letter is full of; I have no better, and think it leſs ill to fill my paper with the trumpery I find in the ſtreets, than with the fruits of my own imagination: I know too well what opinion your lordſhip hath of them, to entertain you with them; if any thing better than what I have mentioned, came to my knowledge, it ſhould be imparted unto your lordſhip, by

Your Lordſhip's, etc.

Roma, Feb. $\frac{1}{2}\frac{8}{8}$, 1660-1. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote to your lordſhip the laſt week; ſince that time, I have not been negligent in making the beſt enquiry I can after ſuch books, as I do hope will

will pleaſe your lordſhip. I have not yet a complete liſt of them, but by the next poſt, I hope to ſend it. On the $\frac{8}{18}$ of this month, came an expreſs to the cardinal *d'Eſte*, with the news of the cardinal *Mazarini*'s death. This town is full of diſcourſe of it, every body philoſophiſing upon the conſequences, according to their affections and underſtandings. Some good judges, conſidering the diſpoſition of the *French* king and nation, think a governing miniſter neceſſary to the one, and that the other will hardly ſubmit to any, unleſs it be a prince of the blood or a cardinal. The intereſt of court goes directly againſt the perſons and quality of the firſt; and of the ſecond order it is hard to find a fit perſon. The cardinal *de Retz* is thought to merit that honour; but to leap immediately from baniſhment, confiſcation, and proſcription, to government, is a change not to be expected, even from the extravagance of fortune. Beſides, none doubt but that the friends of his dead enemy will perſecute him with all poſſible aſperity. And though they will not, perhaps, have power to chooſe his ſucceſſor, they will have enough to exclude him that he ſo mortally hated. The three principal perſons of the *French* faction here, are the cardinals *d'Eſte*, *Antonio Barbarini*, and *Grimaldi*; they are alſo named; but there are ſuch ſtrong exceptions againſt each of them, that few perſons think any of them will be choſen. Some ſpeak of cardinal *Mancini*; but his natural incapacity doth ſo certainly exclude him, that I do not believe he hath the leſt pretenſion. If the king would take one of the *Squadrone volante*, it were eaſy to find a man that would be without exceptions in his perſon, and perfectly free from any intereſt prejudicial to that of *France*. But nothing is more improbable, than that a man known only by reputation, ſhould be choſen for ſo great a work. I ſpeak in this the fancies of others. I have no other opinion of my own, than that he will be choſen that can find moſt favour with the ladies, and that can with moſt dexterity reconcile their intereſts, and ſatisfy their paſſions. I look upon their thoughts as more important than thoſe of the king and all his council, and their humour as of more weight than the moſt conſiderable intereſt of *France*, and thoſe reaſons which here appear to be of moſt force will not be at all regarded. Two days before the cardinal's death was known, the conſtable *Colonna* went from hence towards *Milan*, to make the preparations neceſſary for the reception of his fair bride. The errors of that alliance do now begin to appear, when they are too late to be repented. The archbiſhop of *Colonna* was in the *Spaniſh* ambaſſador's coach a few days before he took his journey towards *France*. The ambaſſador aſked him, how it came to paſs his nephew had reſolved ſo ſuddenly upon that marriage. Whether he thought that in all the dominions of the king his maſter, he could not find a perſon worthy of his alliance, or whether a little advantage of portion was more conſiderable than his majeſty's favour? The biſhop, ſurpriſed with thoſe harſh queſtions, anſwered, That a poor youth ought to be pardoned, if he had ſuch an averſion to the red painting, that no conſideration could prevail with him to marry one that uſed it. To this fooliſh anſwer, the ambaſ-

ſador gave ſo ſevere a reply, accompanied with a bitter, ſcornful ſmile, that a ſharp-ſighted cardinal, to whom it was reported in my hearing, ſaid, it was enough to ſhew how that action was reſented; and if he did not much miſtake the humour of the *Spaniards*, they would remember it, and give him ſuch laſhes for it as one would not give a dog. The cardinal *Mancini* hath the greateſt advantage by his alliance, but much more by thirty thouſand crowns a year, in church livings, gained by *Mazarini*'s death. I ſaw, the other day, a copy of *Mazarini*'s letter to the cardinal *Colonna*, upon the concluſion of the articles of marriage; it was full of ſuch a civility, as is ordinarily uſed by ſuperiors to an inferior. Amongſt other expreſſions of kindneſs, there was this, that as a teſtimony of a continuance of his antient affection unto the family of *Colonna*, he had preferred an alliance with it before any other, though ſeveral of great honour and advantage were offered unto him, and he was perpetually ſolicited to accept of them. Senſible men do in this find two points of vanity, which they pleaſe themſelves with laughing at; the one, that *Mazarini* would have it believed that he did confer, not receive honour by that alliance, as refuſing thoſe of more advantage, in favour of the *Colonni*; the other, that he ſpeaks of his affection to their family, in thoſe terms that are uſed amongſt equals; whereas, there are thoſe in *Rome*, not above forty years old, who remember his father an *Ajuttante di Camera* (which is the next degree above a footman) in the houſe of *Colonna*, and himſelf a page to this cardinal to whom he writes the letter. The cardinal *Sacchetti* doth very nobly expreſs ſorrow for his death, and great reſpect to his memory, as he hath ever profeſſed great affection unto, and eſteem of his perſon, whilſt he lived. The two hundred thouſand crowns given to the pope to employ in the war againſt the Turks, is taken for a piece of policy, to preſerve his heirs from being called to account for three hundred thouſand received by him, upon occaſion of the buſineſs in the *Valtellina*, it not yet appearing how they were employed. I hear of an *Iriſh* prieſt, one *Plunket*, nephew to *Nicholas Plunket*, who is very buſy in prating and ſcribbling. I know not the man, nor what exceptions he can have unto me, unleſs it be for being an *Engliſhman* ſometimes employed in *Ireland*. But I apprehend nothing but orders from *England* to my prejudice. He ſays, ſuch will come as ſhall force me to change my ſtation.

Your Lordſhip's, etc.

Roma, March $\frac{1}{2}\frac{2}{2}$, 1660-1. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote to your lordſhip the laſt week, and I have not now much to add. This week hath been ſpent altogether in devotion by every body here that is of this church, and thoſe that are not are ſpectators. I have not employed

employed much of my time in either; nevertheleſs, have not been able to advance my perfecting the liſt of books, not finding any body idle but myſelf. A few days ſince I was with the old cardinal *Spada*, and ſpeaking of the government of the two cardinals, *Richlieu* and *Mazarini*, whereof the one was much more violent, the other more artificious; he did a few days after make theſe two verſes upon a medal that had the picture of them both, alluding unto the *Gordian* knots,

Magnus uterque fuit; dignos ſed vindice nodos
Richelius ſecuit, Julius explicuit.

The pope commended them extremely, but another cardinal, friend to neither him nor *Mazarini*, ſaid it would have been better if he had ſaid *Julius implicuit*. This pope doth punctually perform all the ceremonies in perſon, moſt part of which his predeceſſors have uſually done by deputy. On *Thurſday* laſt I ſaw him waſh the pilgrim's feet. The ſame day was the ſolemn excommunication and anathematization of the king of *Spain*, the houſe of *Colonna* (a cardinal of the ſame being preſent) and all heretics, ſchiſmatics, *etc.* The cardinal *Mancini* read the bull, but though I was within a yard of him, I could not diſtinctly hear it for the noiſe of the people. The king and the *Colonni* were immediately abſolved; that grace was extended only to ſo many of the others as did repent. The ſame night there was a proceſſion, which uſed to be made very ſolemn, by the preſence of all the cardinals, princes, prelates, and nobility of *Rome*; but ſome that were preſent tell me, there were only two red hats, and very few of the nobility. The moſt remarkable part was of about two hundred perſons, many of them *Spaniards*, the moſt of the reſt *Germans*, *French*, and *Polanders*, who with their faces covered, did, in all the ſpace from St. *Marcello* to *San Pietro*, whip themſelves moſt cruelly, ſo that ſome of them, through the extreme loſs of blood, fainted. At the hoſpital of the *Trinity*, all pilgrims are for theſe days entertained; the cardinal *Antonio Barbarini*, who is the protector of it, accompanied with the cardinal *Carlo* and the prince of *Paleſtrina*, his nephews, ſerving them at one time. There was above a thouſand. The laſt week, at a time when all the cardinals were at ſeveral churches, it was ſo ordered, that a gentleman put into every one of their hands a printed memorial, and retired immediately, before they could read it; and being examined, *it was found to be a moſt bitter invective* * *againſt the*

* Archbiſhop *Browne* preached a ſermon at *Eaſter*, 1551, in Chriſt-Church, *Dublin*, upon the following text. *Open mine eyes, that I may ſee the wonders of thy law.* Pſalm cxix. *ver.* 18. in which he inveighed againſt the church of *Rome*; and particularly againſt the *Jeſuits*, of whom he ſaid, "Theſe ſhall ſpread over the whole world; ſhall be admitted "into the councils of princes, and they never the wiſer; charming of them, yea, making "your princes reveal their hearts, and the ſecrets therein unto them, and yet they not "perceive it.——But, in the end, God, to juſtify his law, ſhall ſuddenly cut off this "ſociety, even by the hands of thoſe who have moſt ſuccoured them, and made uſe of "them; *ſo that they ſhall become odious to all nations*, and be worſe than *Jews*." We entertain ſome hopes, that the above may be prophetical, from the treatment their order has lately met with, very juſtly, in Portugal, and in France.

The Hiſtory of Popiſh Perſecutions, by John Lockman.

Jeſuits, as perſons that ſet up a commonwealth among themſelves, independent of, and deſtructive unto the pope's ſupremacy; repreſenting them little better than as politic heretics, and with ſuch ſharpneſs, full of ſuch truths, as they cannot deny in particular, though they proteſt againſt any ſuch end. The cardinal *Franciotti* was the firſt that ſent this paper unto the general of the order, concerned in it; ſome others did afterwards follow his example. It is thought to be written by ſome of the ſame order, as containing ſecrets that could hardly come to the knowledge of others. Some think that the cardinal *Pallavicini* doth not diſlike this, that brings his brethren into ſome trouble, for there are ſome things in practice amongſt them which he is ſaid not to approve of; and the ſharp viſitation which diſpleaſed them ſo much the laſt year is looked upon as his work. *I have written to my correſpondent at* Frankfort, *for ſir* Philip Sydney's *picture. I could not ſend your lordſhip a thing of leſs value than my own* †, *but ſince ſir* J. Temple *ſays your lordſhip would have it, I will ſend it.* If you pleaſe to have any thing elſe provided here, that will be an ornament to your new buildings, as pictures, ſtatues, marble tables, or moſaic work, I ſhall moſt diligently provide ſuch as your lordſhip ſhall pleaſe to command me. I hear your lordſhip hath ſome ſuſpicions concerning me; if I might know in what, I do upon my word promiſe your lordſhip, to let you know my thoughts punctually, without either diſſimulation or reſervation. Sir *John* ſpeaks ſomething of your lordſhip's laying down the money for the two mortgages upon *Swingfield.* I confeſs that is more than I could have deſired of your lordſhip, but if you will pleaſe to favour me ſo much in the ruin of my fortune, as to take off that burden, ſo that I may have that land free for my ſubſiſtance, I ſhall as long as I live endeavour to deſerve it, and that is all the argument I can give to perſuade you, unleſs I ſhould add, that at my age, growing very near forty, and giving marks of declining by the colour of my hair, it is time that I had ſomething which I may call my own, out of which I may in reſt have bread, when fortune hath taken from me all means of gaining it by my induſtry. Here is one *Plunket*, a young *Iriſh* prieſt, that gives me ſome trouble by fooliſh diſcourſes. Amongſt others, he ſays I am an atheiſt, and bred up in your lordſhip's houſe, under a maſter from whom I learned thoſe opinions. He was anſwered, that was very improbable, and that my life and converſation gave teſtimony of the contrary; but though that were, it concerned no body here. This anſwer was made by the abbot *Hillarione*, with ſome addition to my advantage, upon which he remained ſo mortified, that he confeſſed himſelf miſinformed, and came hither two or three days ſince, to make me an apology. I was glad of it, for though he could do me no prejudice, I

† The picture was ſent, is an excellent one, and now at *Penſhurſt*. It was painted at *Bruſſels* in the year 1663, by *Juſtus van Egmondt*.

There is likewiſe extant a proof impreſſion of a ſeal of the head of *A. Sydney*, now in the poſſeſſion of *Thomas Hollis*, F. R. and A. SS. which ſeal was engraved during the civil wars, by that celebrated *Engliſh* artiſt *Thomas Simon*.

would

would moſt unwillingly have any diſpute with him, for he is eſteemed one of the beſt wits in *Rome*. The other day I was informed, that orders had been ſent from the court here to the internuntio in *Flanders*, to make the beſt enquiry he could of me, my birth, perſon, and quality. To whom information was given by one *White*, an *Iriſhman* (that had ſometimes been ſecretary to Don *Alonſo di Cardenas*, and his interpreter at ſome audiences which he had had of me, as one of his commiſſaries) that I was ever found to be violent againſt monarchy, a friend unto *Roman* catholics, one that in our laſt troubles meddled little with private buſineſs, and that had made my fortune by the war, with ſome other things like unto this, part true and part falſe, but none that I can learn which doth me any prejudice. They were put upon this enquiry by the fooliſh prating of ſome prieſts, who ſpoke of me as the only enemy the king had left, and that I being taken away, his majeſty might reign in quiet. *Theſe are but very ſlight vapours, and if nothing comes from* England *to my prejudice, I will eaſily blow them away.* The laſt week Mr. *Thomas Somerſet* did reſign his canonicate of *San Pietro* into the hands of the pope, and as is ſaid, will put himſelf among the *Padri del Oratorio*. He is diſcontented, and thought to gain ſatisfaction by ſhewing that he was ſo; but he hath no reputation at all, nor is conſidered by any body, ſo that his reſignation is accepted, and I believe may wait until he be weary, before he gains any thing better. The ſtrangers now begin to haſten out of town, which is a great conſolation to me, who never found any inconvenience here, but by their company and neighbourhood. I do ever write a great many trifles, having nothing to ſay that is worth hearing, unleſs it be of buſineſs, which is ſo far from your lordſhip, that I believe it would be tedious. I am

Your Lordſhip's, etc.

April $\frac{1}{8}$, 1661. Alg. Sydney.

I wrote all that is above on *Saturday* laſt, and thinking it not unlikely that your lordſhip will be contented to hear what paſſed here on *Eaſter day*, being the moſt ſolemn function of the whole year, I will relate ſomething of what I ſaw that day. The cardinal *Azzolini* had invited me to ſee his function, as he called it, wherein he was to aſſiſt as deacon cardinal. I went, and upon the ſtairs going up to the *Vatican*, found him and cardinal *Pallavicini*, who brought me into the chamber where the cardinals were all aſſembled, ſitting without order, as in the conſiſtory. The pope ſoon came in, and laying aſide his ordinary habit, was clothed in that of a deacon. The cardinals had all very rich copes, the ground of which were white, embroidered as they pleaſed, with white mitres. In that equipage they went down into St. *Peter*'s church, two and two together, the youngeſt going firſt; laſt of all came the pope, carried in an open chair, upon the ſhoulders of twelve men. At the entry, he was met by the cardinal *Barbarini*, as arch-prieſt of that church, and conducted unto a chair, placed on the right hand of the high altar; there he

was adored by all the cardinals, according to the manner introduced in the time of ſchiſm. After that he laid aſide the deacon's habit, and cardinal *Azzolini* clothed him with thoſe belonging to a prieſt, archbiſhop, and patriarch, one upon another, but all ſo light, that I believe they did little trouble him. Then he began to ſing maſs, attended by cardinal *Barbarini* in the forementioned quality, and the cardinals *d'Eſte* and *Urſini* as the antienteſt of the deacons; but more particularly ſerved by *Azzolini*, as deacon, and *Monſignore Bevi l'acqua Vditore di Ruota* as ſubdeacon. The other cardinals were upon two benches on each ſide of the altar. At the end of one of them, next unto cardinal *Albizzi*, I placed myſelf, and he explained unto me thoſe parts of the ceremony that I underſtood not. In this order the pope began to ſing maſs, performing that part which belongs to the patriarch, while the reſt was ſung by the muſicians. He retired to a throne under a canopy, over againſt the altar, about twenty paces diſtant from it, the cardinals benches making two ſides of the quadrangle. When the time of the elevation came, I retired behind the cardinal's bench, that I might neither give ſcandal, nor do any thing that I did diſlike. The pope, having conſecrated both the elements, retired to his throne, the cardinals *Urſini* and *d'Eſte* ſitting upon little ſtools on each ſide; the ambaſſadors of *Venice*, *Florence*, Don *Mario*, Don *Agoſtino*, and the duke of *Bracciano*, ſtanding upon the ſteps. Cardinal *Azzolini* read the epiſtle and goſpel in *Latin*; two *Grecians* the ſame in *Greek*. *Bracciano* brought the pope water to waſh his hands, *Azzolini* brought the conſecrated *oſtia*, with which he did communicate. The ſacramental wine was brought by *Bevi l'acqua*; the wine to waſh his mouth, by other prelates. The water for his hands, after having touched the ſacrament, was given by Don *Agoſtino*. One thing was remarkable, he did not drink the wine, as is ordinary, but ſucked it through a quill of gold. Then *Bevi l'acqua* brought other little conſecrated *oſtias*, which the pope with his own hands gave to all the deacon cardinals, the five that ſtood upon the ſteps of his throne, and the four *Roman* magiſtrates. In the remaining part of the maſs there was nothing extraordinary. That being finiſhed, all returned in the ſame order as they came. Cardinal *Barbarini* meeting his holineſs at the door of the church, gave him a little purſe with fifteen *julioes* in it (which is worth about ſeven ſhillings and ſix-pence) with theſe words, *Per aver ben cantato meſſa*. From thence, the cardinals going before in couples, he went up to a gallery that makes part of the frontiſpiece of the church, and from a balcony in it he bleſſed all the people of *Rome*, aſſembled in the piazza *di San Pietro*, *in nomine Patris, Filii, et Spiritus Sancti*; and did moreover beg a bleſſing upon them, *pro meritis beatae Mariae ſemper Virginis, beati Michaelis Archangeli, beati Johannis Baptiſtae, beatorum apoſtolorum Petri et Pauli*; adding an abſolution of all ſins unto thoſe that were truly penitent, and praying God of his grace to give them amendment of life. The noiſe was ſo great I could not hear this diſtinctly, but was placed by cardinal *Chigi* ſo near the pope, that I ſaw the book as well as himſelf,

and

and read it all as he ſpoke it. This being done, the people gave a great ſhout of joy, the cannon of the caſtle *Sant' Angelo* were fired, the pope was conducted back to the chamber where he was firſt clothed, there laid aſide his pontifical garments, and took thoſe that he wears ordinarily. The cardinals put off their copes and mitres, aſſumed their uſual ſcarlet, and every one returned to his own home. I ſhould have told you, that in the time of the maſs, the pope had a mitre of cloth of gold; that being finiſhed, he put on a light triple crown, made of cloth of ſilver, embroidered with gold, in reſemblance of the true crown, which was too heavy for him to wear. This function laſted four hours, and he performed it all with a very decent gravity. I begin to think they will be much diſappointed, who hope ſoon to be chooſing him a ſucceſſor.* His face is pale, ſallow, and ſhrivelled, but his eyes, hands, and voice, do not ſhew him to be fifty years old. In one of my next letters, I will ſend your lordſhip ſhort characters of all the principal cardinals, according to what I have obſerved, or can learn from the moſt knowing perſons. And though I have much good to ſay of them, and little ill, it is not poſſible to ſpeak truth of ſo many perſons without adding ſome things that would diſpleaſe, if they were known. Therefore, inſtead of marking them, I ſhall only mention them as firſt, ſecond, third, *etc.* in the ſame order that is here ſet down. Firſt, *Albizzi.* 2. *Sacchetti.* 3. *Pallavicini.* 4. *Spada.* 5. *Barbarini.* 6. *Azzolini.* 7. *Imperiali,* governor of *Rome.* 8. *Roſpigliozi,* ſecretary of ſtate. 9. *Pallotta.* 10. *Borromeo.* 11. *Chigi.* 12. *Pio.* Retaining this, their names will be eaſily known.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

In my laſt, I ſent your lordſhip the names of ſome perſons, of whom I ſhould now have occaſion to ſpeak. I will make that order my rule, in mentioning them. For though I know that a picture well drawn to the life, will be eaſily known, though the name of the perſon be not written upon it; and thoſe characters of perſons, which do not at firſt ſight diſcover for whom they are made, do ſufficiently diſcover the ignorance of the writer, or his malicious deviation from truth; nevertheleſs, the offence is much more ſharp, when a perſon finds himſelf directly taxed, for ſome defect in nature or manners, than if he ſees a paper, wherein nobody is named, that leaves him a liberty of ſaying, whatever diſpleaſeth him is not ſaid unto him, and yet may acknowledge his own likeneſs in any thing that is ſaid to his praiſe. I ſhall at this time ſay little of their families, offices, friendſhips, or enmities, or the particular actions of their lives; it being the ſame thing to name the cardinals *Barbarini,* or *Chigi*; or to ſay the nephew of *Vrban* VIII, or *Alex.* VII: he doth as well denote *Pallavicini,* who mentions him that was diſpleaſed with *Albizzi,* for ſome exceptions taken to his hiſtory of the council of *Trent,* at the congregation

congregation of the *Sant' Uffizio*, as he that writes the name at length: no man here is ſo ignorant as not to know, that if I mentioned him, who, by *Innocent the tenth*, was taken into the place of his nephew, and afterwards diſgraced, and put out of town, upon the diſcovery made by *Albizzi*, and *Azzolini*, of his being gained by the *Spaniards*, and revealing to them all the counſels and affairs of his uncle, I mean, *Aſtalli:* but leaving that work, of ſpeaking more particularly of their actions, relations, and intereſt, to another time, I will now ſpeak only of their diſpoſitions, humours, and qualities.

The *firſt* is [*Albizzi*] of a free, open nature, little favoured at court for the plainneſs of his language, expreſſing his diſlike to all things that deſerve it. Excellently verſed in the affairs of this court. Never employed abroad. Virtuous in his life, zealous in his religion, honeſt in his dealings. His diſpoſition is not ill repreſented by his countenance, which though ſomething hard, and ſevere, hath ſo much of vigour, vivacity, and conſtancy, as renders him not unlovely, and very eſteemable. He is induſtrious, ſtudious, and learned, eſpecially in divinity; and hath been an excellent preacher. Not much a friend to the *third*. He deſerves the triple crown, but is not likely to wear it. The opinion of his ſevere and reſolute nature, will probably exclude him, as too ſtrict and dangerous, both to cardinals and prelates.

The *ſecond* is [*Sacchetti*] gentle, and affable in behaviour. Sincere and incorrupt in the charges that he hath exerciſed. Much verſed in buſineſs, not much acquainted with books. Very conſtant in the repulſes he hath received, which were ſo ſharp, and direct, as to deſerve the name of affronts. More a lover of honour, than of profit. Careful of his health, perhaps in hopes of repairing, by living long, his formerly well grounded, but failing pretences. I have found him a little troubled with the diſeaſe incident to old men, that have been eminent in the world. He loves to talk a little too much, and often makes his own actions the ſubject of his diſcourſe. Thoſe pleaſe him beſt, wherein he hath ſhewed integrity and conſtancy, rather than great ſubtilty of wit. He glories moſt, in having been advanced to all the principal charges of this court, without ever having ſought any, and refuſing ſome, that were very conſiderable. *I confeſs, theſe things might ſound better from others, than from himſelf: but he that hath ſo much good to ſay of his own life, and all true, deſerves to be excuſed, if he employ a few more words in it than ought to be allowed another of leſs merit. He ſeemed to be pleaſed once, when I told him, That he had found a way of attaining that dignity which is equal to kings, by meriting it; and had aſcended unto that which is above them all, to the completing of his glory and fortune, if he had not merited it too well. Which, though a compliment, is exactly true.*

Italy hath not a finer wit than the *third* [*Pallavicini*] nor hath any convent a monk of a ſtricter life. It is ſaid, that ſix-pence a day ſerves him in meat; his bread and wine is furniſhed from the palace. Women never trouble his thoughts. The uſe of them is unknown to him. He hath

hath conſtantly refuſed great church livings; and being lately preſſed by the pope, who favours him very much, to receive one of great value, he anſwered, Your holineſs can add nothing to the favour of giving me this hat, but by employing me in ſuch things, as may be for your ſervice, and bear teſtimony of my gratitude: I want nothing elſe. He makes good his words, receiving not above three or four thouſand crowns a year, to keep up the ſtate of a cardinal, having had nothing before he came to it. He labours inceſſantly in thoſe knotty buſineſſes, *that require much pains, and yield no profit.* This humour defends him from having rivals in his pretences. He hath ſhewed it is poſſible for the ſame man, to be excellent in the *Belle Lettere*, and the moſt deep and abſtruſe ſciences. I do not think he hath ſo well joined the theory and practice of buſineſs. The extreme acuteneſs of his wit renders him admirable in the one, and fills his head with notions too nice and high for the other. Beſides this, he hath lived more among books and papers, than men. *He ever aims at perfection, and frames ideas in his fancy, not always proportionable to worldly buſineſſes: ſometimes forgetting that the counſels, as well the perſons of men, are ever defective; and that in human affairs, governors and miniſters are not ſo much to ſeek what is exactly good, as what is leaſt evil, or leaſt evil of thoſe things, that he hath power to accompliſh.* He is moſt meek and humble in his behaviour; eaſy and gentle in treating of his own concernments; but in ſpiritual and eccleſiaſtic affairs, his zeal renders him ſharp and violent. Theſe qualities ſhew him to be an excellent cardinal, but would render him an ill pope; at leaſt, in the opinion of the courtiers, who will not endure to be overlooked by ſo ſharp ſighted a maſter, nor reformed by ſuch a bitter enemy to corruption and looſeneſs. His ſeverity beginning with himſelf, it is not hoped that he will ſpare others.

The *fourth* [*Spada*] is ſubtle, and loves to be thought ſo. He is pleaſed both with honour and profit: glories in what he gets by his wit and induſtry. He allows not above four hours in a night, and half an hour after dinner, for ſleep. He is not at all aſhamed to appear ſolicitous for his family: it is numerous, and finds good fruit of his dexterity. When he went into the laſt conclave, a friend told him, he hoped to ſee him come out pope: he anſwered, No, my nephews deſtroy me. Age hath not taught him to be idle. When he goes to take the air for a few days, his principal entertainment is with books, and ſome learned perſons that he takes with him. When he is at home, his time is divided between buſineſs and ſtudy. Though he hath many qualities that are highly eſtimable, he is more pleaſed with the praiſe given to one of his epigrams, than ſome think is ſuitable to his age, dignity, and perſon. No man is thought to excel him in fitneſs to manage great buſineſs, nor in human learning. He is a great patron of thoſe that have qualities like unto his own. He is a living hiſtory; and his memory is a magazine, where the records of all affairs of the world are kept in ſo good order, that he knows when, and how, to bring forth every piece

to the beſt advantage of buſineſs, or converſation. If any particular hath eſcaped his knowledge, he gives very ſharp and adequate judgments, upon the hearing of it. He doth not much love diſſimulation, but knows how to do it, when it is neceſſary.

The *fifth* [*Barbarini*] hath great ſharpneſs of wit and invention: ſome think him defective in point of judgment. He loves ſubtle and intricate ways, better than ſtraight paths. Age hath not abated his vivacity. His induſtry is indefatigable. In times of greateſt trouble and danger he is beſt; and of no uſe, when buſineſs runs ſoftly and quietly in its uſual channel. No man ever ſaw him frighted, or deſpairing, though he hath had reaſon enough for both. Some ſay he is a great diſſembler; I hope not, for he ſhews much kindneſs to me, and I ſhould be ſorry to find it not real. A great man told me, there was no commerce between his tongue and his heart. He is kind to his friends and family; a great deſpiſer of ſenſual pleaſures; ſimple in the manner of his life; intent upon buſineſs. The nation that is under his protection ſpeaks ill of him; but truly, I think, their diſcontent proceeds rather from the repulſes which they draw upon themſelves by their impudent importunity in aſking, and ravenous and inſatiable thirſt of gaining more than is reaſonable to deſire, or poſſible to obtain for them, than that he fails of helping them as far as he can. If this pope dies, he is likely to have a great part in the choice of his ſucceſſor; but his own pretences are weak.

The *ſixth* [*Azzolini*] owes his advancement to his wit and virtue. The laſt pope was pleaſed with his excellent qualities, and gave him ſuch a part, in the management of affairs, as was thought unproportionable to his age. But he was known to be ſo good a judge of men, that the wiſeſt durſt not blame his choice. This ſoon ripe young man, by his behaviour, ſhewed his own merit, and that his maſter's judgment was well grounded. He received the purple, when he was 29 years old, as a teſtimony and reward of his fidelity. That pope who had many qualities, and great actions to glory in, thought the choice of this miniſter deſerved to be bragged of. He is of a cheerful nature; not a deſpiſer of innocent pleaſure; delights in things of ſplendor; gives good teſtimonies of inclinations to liberality, if his fortune gave him the power of exerciſing it. He could never in the leaſt degree be accuſed of covetouſneſs, but the narrowneſs of his fortune obligeth him to avoid unneceſſary expences, and by that means he lives ſo handſomely, that he who ſees his palace, would think he ſpends twice as much as he doth. His converſation is ſweet and affable, wit ſharp, ſubtile, and dexterous. Inferior to the third in learning, but much above him in practice, and knowledge of worldly buſineſs, as well as ability to manage great ones. The one is more ſpeculative, the other hath an underſtanding far better ſuited to government. He would never be engaged to be of the *French* or *Spaniſh* faction, by which means he hath leſs money, and better reputation, than thoſe that too cloſely join themſelves to either. He is eſteemed, *Capo dello ſquadrone volante*; though he hath no prerogative above his companions, but their voluntary

voluntary yielding unto him, for his merit. His youth for the preſent, cuts off his pretences to the papacy. If he lives, he is likely to meet with no greater obſtacle, than that which accompanies thoſe that come young to be eminent. It is obſerved they ſeldom riſe above the degree of cardinals; for no perſon is ſo perfect, as not to have ſome defect, nor ſo innocent, as not to offend ſomebody. The one cannot be long concealed, and the other muſt certainly make enemies, who will uſe all means to croſs his pretences, being incited by thoſe two ſharp ſpurs, deſire of revenge, and fear of reſentment, if he whom they hate, and think themſelves hated by, ſhould come to be their maſter. Upon this occaſion I will a little wander from my purpoſe, and relate an accident of great importance, known to few. The cardinal *Pancirolli* did uſe to ſay nothing was more deſtructive to a cardinal's pretences to the papacy, than to be thought revengeful. To take away that opinion of himſelf (which was too common at court) he did by all means imaginable advance the intereſt of the cardinal *Chigi*, now pope, with whom he was known to have ancient diſputes. He commended his perſon, as the true model of a perfect prelate, equal in modeſty and integrity to the ancient fathers; which coming from the mouth of one known to be a very good judge of men, and his enemy, was looked upon as a confeſſion, extorted by the certainty and evidence of truth, but had an effect very different from the intention of the author; who inſtead of gaining the opinion of meekneſs, which he ſought, gave ſuch a reputation to his enemy, as raiſed him to the throne, and was no advantage to himſelf.

The *ſeventh* [*Imperiali*] ſhews his diſpoſition by his face, full of that ſharp fierceneſs, which ſuits better with a ſoldier, than a cardinal; but his wit, diligence, and dexterity in buſineſs make amends for much greater faults. The ſecond perſon that I mention in my liſt was the firſt that took notice of him, as an extraordinary man; and according to his cuſtom, and nature, ever inclined to favour virtue, ſought by all means to advance him. His choice and judgment is juſtified by his behaviour in all the charges that he hath borne; eſpecially in that which he now executes, which is full of thorns. He ſhews himſelf as incorrupt as any of his predeceſſors, and of better diſpatch than any: He is generally called, *a man of execution.* I believe that is a true character; his ready wit, and great boldneſs, are good ingredients for ſuch a compoſition.

The *eighth* [*Roſpiglioſi*] is thought a good man, rather regular and methodical, in the management of affairs, than of extraordinary acuteneſs. His abilities are rather acquired by practice, than the gifts of nature. Others of this place, and age, apply their thoughts to buſineſs, and perhaps uſe a little poetry, for entertainment. Poetry is his principle buſineſs, other affairs come in by chance, and are performed, *par maniere d'acquit.* I do not hear of any great exception to him, but that he may be as likely to be choſen pope, as any other; and being known not to

have an active, dangerous head, may perhaps be advanced before thoſe that are more eminent.

The *ninth* [*Pallotta*] hath, by long experience, gained great knowledge of buſineſs, and hath very good natural underſtanding, acute and comprehenſive, but confuſed; and he is thought capricious, and fantaſtical. He ſpeaks well of all things, and delights in nothing more than the ſound of his own tongue. He doth as little want good intentions, as knowledge; but the length of his diſcourſes renders him unfit for any buſineſs. Some think that proceeds from his earneſt deſire to be exact in all his actions, that makes him ſearch ſo nicely into every thing, that comes before him. Others take it to be oſtentation of wit and eloquence, and thoſe are not wanting, who attribute all, to the greatneſs of his fancy and memory, which upon all occaſions repreſent unto him ſuch a multitude of ſpecies, that they perplex and confound his judgment, which naturally is not very diſtinct; ſo that every ſlight matter proves to him a moſt intricate labyrinth. Whatever the reaſon is, it is certain, he that I named laſt, ſave one, will diſpatch twenty buſineſſes, while he ſticks upon one. This quality will keep him from being pope; in other reſpects, he might have good pretences.

The *tenth* [*Borromeo*] is a principal ornament to the college; few excel him, either in natural parts, learning, or innocence, and ſtrictneſs of life; none in all thoſe qualities. The faculty in which he moſt excels is the law. He drinks but eight ounces at a meal. His life in all things is proportionable unto this. In countenance and diſpoſition, he reſembles his great uncle, whoſe memory is ſo highly reverenced. His delight is in ſtudy, and converſation with learned perſons. He yields to ſome of the college, in experience of ſtate buſineſs, perhaps to none in qualities fit to make a great miniſter, unleſs a pure and ſtrict conſcience, be an obſtacle and imperfection. If God gives him life, no head is more likely to wear the triple crown, ſince none deſerves it better.

The *eleventh* [*Chigi*] is rather innocent than good, or good than wiſe. He could never have attained to that degree, by merit or induſtry, to which he is advanced by fortune. But he is to be commended, that he doth behave himſelf modeſtly in it. He thinks the uſe of pleaſures is an advantage juſtly belonging to greatneſs, ſince he uſeth no ill means to procure them.

The *twelfth* [*Pio*] is more a gentleman, than a prelate, and would have been a gallant man in a ſecular court, or perhaps better in an army. Nevertheleſs he doth accommodate himſelf well enough to the life of an eccleſiaſtic. He doth not pretend to be very zealous, but lives very free from ſcandal. He is magnificent in his nature, and his riches give him good opportunity of ſhewing it. He is more courted by cavaliers than prieſts; and if he ever aſcends into St. *Peter*'s chair, he muſt be choſen for being of a frank, ingenuous, and good nature, as free from ſeverity to others, as corruption in himſelf.

I here

I here ſend your lordſhip what I promiſed in my laſt, thinking you would not be unwilling to know ſomething of thoſe perſons, that have ſo great a part in the government of the world, *and of whom truth is ſeldom ſpoken.* Few ſtrangers that come hither return any better informed than they came, *except prieſts*; and of them I have known none of our nation, but father *Courtney*, that knows any thing worth a ſtraw. *And their reports are to be ſuſpected, as from perſons ordinarily partial, and governed more by the intereſt of the church, than by truth*: often their judgments are perverted by malice, to particular perſons, from whom they have received diſtaſte.* I am free from all biaſſes. That which I ſay may be relied upon as truth, at leaſt ſo far as the perſons I mention have diſcovered themſelves: *but I confeſs they may have ſecret qualities, very different from what I have mentioned.* I think the pictures of theſe eminent perſons, would be good ornaments to your new building. I will ſend ſome of them with the books; more ſhall follow, if your lordſhip command me. The cardinal *Mazarini* doth ſtill exerciſe the *Roman* wits. I ſend this ſatirical epitaph, written by a *Franciſcan* friar, who being formerly a jeſuit, reſiding at *Madrid*, was the firſt contriver of the revolt of *Portugal*, with the cardinal *Richlieu*. He is a native of that kingdom, and was with the ambaſſadors, when your lordſhip did viſit them in the *Rue de Tournon*. He is much eſteemed here, and I ſhall give your lordſhip ſome of his works. Your lordſhip will not wonder to hear I am weary, when you ſee what I have written, without ever riſing from my chair. I deſire your pardon for the errors, and if there be any thing of this kind, or any other, wherein I may ſerve your lordſhip, my diligence and obedience ſhall be teſtimonies, that I am

Your Lordſhip's, etc.

April $\frac{15}{25}$, 1661. Alg. Sydney.

The lord of *Briſtow* is at *Milan*, lodged in the palace, and treated liker to a king, than a perſon ſent privately by a king. The princeſs he went to ſee is young and handſome, but as much inferior to her of *Modena* in beauty, as in birth. If the firſt be too nearly depending upon *Spain*, the other is without that exception, having ſome relation to *France*. I leave it to men that are at preſent in buſineſs to judge, whether ſuch ties are reaſons for or againſt taking either of them. This court would be more pleaſed to ſee one of theſe two princeſſes crowned in *England*, than any other.

* ——Why ſeek we truths from prieſts?
The ſmiles of courtiers and the harlots tears,
The tradeſman's oath, and mourning of an heir,
Are truths to what prieſts tell——— *Lee.*

The *Roman* clergy are a confederacy of deceivers, that to obtain dominion over other men, endeavour by myſtery and nonſenſe to extinguiſh in them *both the light of nature and the goſpel.*
Memorable Sayings of *Thomas Hobbes* of *Malmesbury.*

They neither plough nor ſow; and yet they reap
The fat of all the land, and ſuck the poor.
Shakeſpeare.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I wrote ſo much to your lordſhip the laſt week, that I might have a very juſt excuſe for being ſilent now; but ſome of my friends telling me, you are not diſpleaſed with the relation of ſuch little things here, as come to my knowledge, I will ſend them very conſtantly, deſiring your lordſhip to believe, that when you do not receive them, I am either ſick, out of town, or hindered by ſome inevitable accident, or that my letters miſcarry, for as long as I am able to write, and in town, I will not omit it; unleſs I find, that, inſtead of ſervice, your lordſhip looks upon my letters as a trouble.

On *Thurſday* laſt the pope went to *Caſtle Gandolpho*, a pleaſant place, ſeated in the hills, twelve miles from hence. There are fine walks, which he uſeth much, both for delight, and preſervation of health. I am ſorry to hear your lordſhip hath neglected that help, which being one of the beſt that hath been found out amongſt men, I fear you will find the want of it. The ſkill of preſerving health is in great perfection in this place, exerciſed moſt upon old men. Little purging phyſic is uſed; things that are cooling, and deſiccative, are moſt choſen. Their rules are reduced to theſe two principal heads; a ſlender diet, and much exerciſe. An old cardinal the other day told me, that in other places exerciſe was good, *citra ſudorem*, but in *Rome*, by reaſon of the groſſneſs of the air, it muſt be uſed *uſque ad ſudorem*. Beſides the natural deſire of living long and well, they are invited unto a more than ordinary care, by hopes of advancing their fortune; few attaining unto any great matter here, until they come to be old. Cardinal *Sacchetti* is now in his ſeventy fifth year, and doth ordinarily walk three or four miles, without reſting; by which means, he enjoys a proſperous health, and preſerves his wits freſh, and clear, as in his youth. The cardinal *Mazarini*'s obſequies, were the laſt week celebrated with great ſolemnity, in a little church which he had built. The funeral oration was made by *Pere Leon*, a *French Carmelite* friar, of great fame for learning, and prudence in affairs of ſtate, in which he had been much employed. There were preſent the cardinals *Antonio Barbarini*, *Sforza*, *Grimaldi*, *Aſtalli*, *Eſte*, *Urſini*, *Mancini*, *Albizzi*, and *Colonna*; the ſeven firſt, as declared of the *French* faction, *Albizzi* ſomething inclined to it, and a friend to his perſon; *Colonna*, by reaſon of the new alliance contracted between their families; and the firſt ſtep the dead perſon had made towards being known in the world, was by being a ſervant unto him when he was nuncio in *Spain*. It is ſaid, young *Julio* at that time fell in love with a common whore at *Madrid*, who having gained ſome money by her trade, he did intend to marry her, and propoſed unto his maſter that deſign, as a thing which he thought of great advantage; but *Colonna* knowing that after he had made that ſtep, he could never hope for any higher preferment, than to be a bawd to his wife; having no other way of diverting him, under pretence of honouring him with a packet,

packet, ſent him into *Italy* with one, that contained little more than the diſcovery of his deſign, and advice unto his father, not to ſuffer him to return into *Spain*. The laſt week the cardinal *Guidone* came into town, and was to have received the hat from the pope's hand at a public conſiſtory; but his health is ſo ill, that it is thought more likely, that he will rather ſoon leave unto his holineſs the diſpoſal of his cap, than receive the hat from him. I did receive draughts of theſe two encloſed writings from ſir *J. Temple*, with direction to have them written out, and ſent unto your lordſhip, ſigned and ſealed, which I herewith have accordingly performed. I confeſs the intention of them is unknown to me, and not at all explained by him. Thus much only I do underſtand, that the lands are worth more than double the ſum for which they were mortgaged, and that I can either ſell them outright to the perſons, or redeem them, by paying the money hereafter, and have the overplus unto myſelf, which is the beſt part of that poor fortune which I have left in the world; but I know my intereſt is never ſo ſafe, as in your lordſhip's hands; and not doubting, but that your lordſhip's intention is to favour me, and not to make uſe of ſuch a power to my prejudice, I here incloſed, as the utmoſt act of reſigning myſelf into your power, ſend them unto you. I have at this time little to ſay, and am troubled with one of my ordinary fits of the headache, which perſuades me to conclude, deſiring your lordſhip ever to look upon me, as

Your Lordſhip's, etc.

Apr. 22, / *May* 2. 1661. Alg. Sydney.

I did intend to have ſaid no more; but it is a folly to conceal the evils that oppreſs me. I have with difficulty wrote this; and the troubled thoughts into which the letters received by the laſt poſt have caſt me, give me not eaſily the liberty of ſaying more. *The misfortunes into which I was fallen, by the deſtruction of our party, did not ſhake me.* The cheats and thefts of ſervants, were too ordinary to trouble me. I ſuffered my mother's legacy to be drawn from me, upon which I might have ſubſiſted a good while. I was not very much ſurprized to find myſelf betrayed, and robbed of all that with which I had truſted lady *Strangford*, but I confeſs, that I am ſorely troubled to find, that ſir *J. Temple* is going into *Ireland*; the agreement which he had ſo often ſaid ſhould be made with *Strangford* broken; from which I might expect ſome part of what is due unto me, to live upon; the mortgage to the earl of *Thanet* to continue upon *Andrews*'s land, which is the foreſt miſchief that ever fell upon me ſince I was born, and that I was ſo often promiſed ſhould be taken off, and put upon *Portling* lands, as it ought to be: and by all theſe means together, I find myſelf deſtitute of all help at home, and expoſed to all thoſe troubles, inconveniences, and miſchiefs unto which they are expoſed, who have nothing to ſubſiſt upon, in a place far from home, where no aſſiſtance can poſſibly be expected, and where I am known to be of a quality, which makes all low and mean ways of living

ſhameful and deteſtable. Theſe are part of the evils with which I find myſelf encompaſſed, and out of which I ſee no iſſue; nor can I make one ſtep, that is not as likely to prove my deſtruction as preſervation. It will not, I think, be thought ſtrange, that I am ſenſible of them, ſince he that is not muſt be an angel, or a beaſt: my only hope is, that God will ſome way or other put an end to my troubles, or my life. No bookſeller in *Rome* hath the life of cardinal *Vincentius Laureus*; but I found it in cardinal *Barbarini*'s library, and borrowed it to read, which I did yeſterday in two hours, walking in the garden of *Montalto*. It appears to me a ſlight thing, written by the abbot of *Pinarol*, rather to ſhew his gratitude to his maſter, than to do any great good in the world. When he came firſt to *Rome*, he put himſelf into the ſervice of cardinal *Cozentinus*, who, at that time alſo, had *Ugo Buoncompagnus*, who was afterwards pope *Gregory* XIII. *Cozentinus* dying, he was entertained by cardinal *Gaddius*; after his death by the cardinal *de Tournon*; by him, and the princes of the houſe of *Guiſe*, employed unto *Lanez*, general of the jeſuits, in their deſign of giving the crown of *France* to the king of *Spain*. That deſign ſoon vaniſhed, as a vain thing, and was peremptorily refuſed by *Perenottus*, ambaſſador of *Spain*. *Tournon* dying, he came to the ſervice of *Anthony* king of *Navarre*. After a few months, his death left him free to ſeek a new maſter, who proved to be *Hippolitus d'Eſte*, cardinal of *Ferrara*; with him he returned to *Rome*, after the death of *Pius Quartus*, pope, to be at the conclave, where *Pius Quintus* was choſen. *Vincentius* was by this pope made biſhop of *Mons Regalis*; deſigned nuncio into *Scotland*; advanced as far as *Paris*; detained there by letters from queen *Mary*, whoſe troubles then began, and never ended. Some relation is made of her actions, with leſs aſperity than is uſed by *Buchanan*; *but the main matters of which he accuſeth her, confeſſeth, mitigated only as effects of human frailty; and all ſalved at laſt, with dying a catholic.* After this, he was ſent by the ſame pope nuncio unto *Emanuel Philibert*, duke of *Savoy*. And, upon *Henry* duke of *Anjou* being choſen king of *Poland*, ſent to congratulate his election, and to reſide as nuncio with him, when he came into his kingdom. *Henry* not remaining there long, the *Polanders* came to a new election, *Vincentius* did induſtriouſly favour the pretences of *Maximilian* the emperor, by whoſe ſlackneſs the deſign failed, when it was brought almoſt to maturity. *Stephanus* being choſen, and *Maximilian* dying, he remained ſome time nuncio in *Poland:* from thence was ſent the ſecond time into *Savoy*, while the diſpute was about the marquiſate of *Saluſſes*. At this time he was made cardinal by *Gregorius* XIII, his ancient companion; who dying ſoon after, *Vincentius* went to *Rome*, and received the hat from the hand of *Sixtus Quintus*, and was then made protector of the queen, and nation of *Scotland*. A few days after, he received the queen's will, made the day before her death; *wherein ſhe gave the crown of* England *to the king of* Spain, *if her ſon would not turn catholic.* After this, nothing is reported that is memorable, but his pretenſion to be pope in the conclaves, wherein *Vrban* VII. and *Greg.* XIV. were choſen: both

diſappointed by the *Spaniards*, from whom he expected the greateſt aſſiſtance. I have here ſent your lordſhip an epitome of this book: if yet you care to have it, I will cauſe it to be written out.

In one of theſe writings ſent me by ſir *J. Temple*, the lands lying within *Ripton Park*, called *the Hoods*, were mentioned as mortgaged, with *Boineton*, to the earl, which is not true; but were long ſince ſold outright, which made me leave that out of the writing I ſealed, which in all other reſpects is according to the draught that was ſent me.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

The laſt week I did not write into *England*, being employed at the time the poſt went away, in ſettling my ſmall affairs upon my remove hither. By the civility of a ſtranger, I find myſelf at preſent as well as I can be, until the time come that I may conveniently return to my own country. The prince *Pamphili*, nephew to the laſt pope, hath given me very convenient lodgings in his *Villa di Belvedere*, which is one of the fineſt of *Italy*. Whilſt every body at *Rome* is panting and gaſping for life in the heat, which they ſay this year is much greater than ordinary, I enjoy ſo freſh an air, as to have no reaſon at all to complain of the ſun. Here are walks and fountains in the greateſt perfection, and though my natural delight in ſolitude is very much encreaſed this laſt year, I cannot deſire to be more alone than I am, and hope to continue. My converſation is with birds, trees, and books: in theſe laſt months that I have had no buſineſs at all, I have applied myſelf to ſtudy a little more than I have done formerly; and though one who begins at my age cannot hope to make any conſiderable progreſs that way, I find ſo much ſatisfaction in it, that for the future I ſhall very unwillingly (though I had the opportunity) put myſelf into any way of living that ſhall deprive me of that entertainment. Whatever hath been formerly the objects of my thoughts and deſires, I have now intention of ſeeking very little more than quietneſs and retirement. This place is about half a mile from *Franſcati*, where there hath been ſtore of company this ſpring, but they are almoſt all returned to *Rome*, and the reſt within a few days will follow; there being an opinion, that after the latter end of *June* it is extremely unwholeſome to go from hence to *Rome*, until the air be purged by the rain, which ordinarily comes in *October*, which is enough to perſuade every one to return, *it being hard to find a man here that doth not make rules of health the principal care of his life*. The cardinal *Sacchetti* went from hence on *Thurſday* laſt, having firſt with great civility offered me his *Villa*, with many conveniences in it, for this ſummer; but I being ſettled here, excuſed my remove. The conſtable *Colonna* was expected at *Rome* on *Friday* laſt, but he is detained at *Macerata* by the ſickneſs of his wife. *Rome* is ever full of bitter tongues, and moſt of them are at preſent exerciſed againſt that young couple. They ſay, that at *Milan* he ſhewed no virtue that hath been eminent in his

family, but good huſbandry, and keeping himſelf *incognito*; was known only in ſhops by his exactneſs in examining prizes: and though his lady at firſt meeting paſſed twenty hours in bed with him, it is ſaid ſhe roſe as pure a maid as when ſhe laid down: to theſe are added a hundred ugly things of her, if it be poſſible, worſe than are written from *Paris* of Mr. *de la Meillieray* and his ſiſter. The duke de *Nevers* is returned into *France* without ſeeing her. His ſhort ſtay and little buſineſs make people ſay his journey was only to viſit *Diana Velitrana*, a courtezan, with whom he ſpent the moſt part of his time. He came hither with little reputation, and returned with leſs. The *Padre Oliva* (whom I have formerly mentioned to your lordſhip) is, by the general chapter of the Jeſuits, choſen *Vicario Generale* of their order, with power to act without dependance upon the general, and aſſurance of ſucceſſion if he outlives him. This election gives general ſatisfaction, certainly with reaſon, for he is a wiſe and worthy man. It is true, the chapter had no precedent for conſtituting an officer with ſuch power; but it is confeſſed by all, that they have ſupreme authority in what belongs unto themſelves; and the incapacity of the preſent general, not perfectly exempted from the groſs *German* vices, did oblige them to uſe it. It is ſtrange that man could ever come to be their chief, who never had one before that was not a very eminent perſon. Perhaps he was one that did appear *dignus imperio niſi imperaſſet*. The cardinal *d'Aragona* made his entry into *Rome* the laſt week, and is, as I hear, to receive the red hat to-morrow. It was ſaid that he had loſt great treaſures in his paſſage by ſea from *Spain*; but people begin to think that report was ſpread only for an excuſe not to live in that ſplendor which is more ſuitable to his birth, dignity, and humour, than to his fortune. Others ſay he is rich enough, but that covetouſneſs is more prevalent with him than his delight in oſtentation; but all agree his greateſt loſs was ſome boxes of chocolate. The cardinal *d'Eſte* remains ſtill at *Modena*, expecting the effect of his deſign formerly mentioned to your lordſhip. The prince *Mattia de' Medici* is expected every day at *Livorno*, with the young princeſs from *Marſeilles*. The *Gran Duca* doth certainly intend to receive her with the greateſt magnificence that in many ages hath been ſeen in *Italy*. I am

Your Lordſhip's, etc.

Franſcati, June $\frac{3}{13}$, 1661. Alg. Sydney.

I did long ſince hear from my colleague ſir *Robert Honywood*, that all the bills charged by us upon the council from the north were ordered to be paid, and the ſame allowance until the time the goods were delivered; by which means the laſt bill which was for 600*l.* being money laid out equally between him and me, ought to be divided between us, and likewiſe the reſt, which is near as much more. I wrote to him and ſir *J. Temple* about this buſineſs, but could have no anſwer; ſo that I doubt he intends, as many others have done, to take advantage of my abſence, and deal ill with me. I do not know how the order was granted, and therefore can do nothing in it. I beſeech your lordſhip when you come to *London* to take a little care of it; he will be afraid to deceive me, if your lordſhip appear in it.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER.

My Lord,

I have already once or twice written unto your lordſhip, ſince I came to this place; but I did not think it neceſſary to perform that duty ſo conſtantly, as whilſt I was at *Rome* having nothing at all to ſay. I know nothing of what is done in the world, and have retired hither that I might know nothing, unleſs it be that which relates unto *England*; my friends there do, as it ſeems, think the knowledge of that would diſturb my ſolitude, by making me as much a ſtranger unto all that is done there, as to the affairs of *China*. I left *Rome*, where I had made a great deal of acquaintance, to avoid the neceſſity of making and receiving viſits, and live now as a hermit in a palace. Nature, art, and treaſure can hardly make a place more pleaſant than this. The deſcription of it would look more like poetry than truth. A *Spaniſh* lady coming not long ſince to ſee this houſe, ſeated in a large plain, out of the middle of a rock, and a river brought to the top of the mountain, with the walks and fountains; ingeniouſly deſired thoſe that were preſent not to pronounce the name of our Saviour, leſt it ſhould diſſolve this beautiful enchantment. We have paſt the ſolſtice, and I have not yet had occaſion to complain of heat, which in *Rome* is very exceſſive, and hath filled the town with ſickneſs, eſpecially that part of it where I lived. *Here is what I looked for, health, quiet, and ſolitude. I am with ſome eagerneſs fallen to reading, and find ſo much ſatisfaction in it, that though I every morning ſee the ſun riſe, I never go abroad until ſix or ſeven of the clock at night; yet cannot I be ſo ſure of my temper, as to know certainly how long this manner of life will pleaſe me. I cannot but rejoice a little to find, that when I wander as a vagabond through the world, forſaken of my friends, poor, and known only to be a broken limb of a ſhip-wrecked faction; I yet find humanity and civility from thoſe who are in the height of fortune and reputation. But I do alſo well know, I am in a ſtrange land, how far thoſe civilities do extend, and that they are too airy to feed or clothe a man. I cannot ſo unite my thoughts unto one object, as abſolutely to forbid the memory of ſuch things as theſe are to enter into them; but I go as far as I can; and ſince I cannot forget what is paſſed, nor be abſolutely inſenſible of what is preſent, I defend myſelf reaſonably well from encreaſing or anticipating evils by foreſight. The power of foreſeeing is a happy quality unto thoſe who proſper, and can ever propoſe to themſelves ſomething of greater felicity than they enjoy; but a moſt deſperate miſchief unto them, who by foreſeeing can diſcover nothing that is not worſe than the evils they do already feel. He that is naked, alone, and without help in the open ſea, is leſs unhappy in the night, when he may hope the land is near, than in the day, when he ſees it is not, and that there is no poſſibility of ſafety.* Perhaps, ſharp-ſighted people might, in a condition like unto mine, find more occaſion of trouble than I do. I find ſtupidity an advantage; nature hath given me a large proportion of it, and I did artificially encreaſe it to that degree, that if I were not awakened with the bitter

ſenſe of ſome miſchiefs that the Lady *Strangford* hath brought upon me (which ſir *John Temple* ever made me hope he would remove) I ſhould reſt well enough at eaſe, in a dull indolence, and never trouble myſelf with the thought of examining where I ſhould have bread for three months. This may ſhew your lordſhip into what ſtate nature and fortune have brought one that received life from you. I have not much to complain of (unleſs in that one point I mentioned) leſs to deſire, and leaſt of all to be pleaſed with. Whilſt I was in *Rome* I wrote letters without much pain, ſince I had not ſo divided my time as to be very ſenſible of loſing an hour or two; now I am alone time grows much more precious unto me, and I am very unwilling to loſe any part of it. I think this a lawful excuſe for writing ſeldom to your lordſhip, only when I have nothing to ſay that you can care to hear; if it were otherwiſe, I would wave all reſpects to entertain you. I need make ſmall apologies to my other friends; their ſilence commands mine. I am

Your Lordſhip's, etc.

Franſcati, $\frac{\text{June } 23,}{\text{July } 3,}$ 1661. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I write conſtantly to your lordſhip, at the leaſt once a fortnight; though I have not ſo much as the encouragement of knowing you do receive my letters or would have me write. Whilſt I was at *Rome* I thought it more probable your lordſhip would have me write than not, becauſe I had ſometimes ſomething to ſay, that perhaps you would not be unwilling to hear; but that now failing, I am inclined to think my ſilence would pleaſe you beſt, and therefore am perſuaded to make my packets fewer and lighter than formerly. I have extreme little to ſay, becauſe I neither do any thing, nor know what is done by others. I intend this half burial, as a preparative, be an entire one; and ſhall not be much troubled though I find, if upon the knowledge of my manner of life, they who the laſt year at *Whitehall* did exerciſe their tongues upon me, as a very unruly headed man, do ſo far change their opinion of me, on the ſudden, as to believe me ſo dull and lazy as to be fit for nothing. When that opinion is well ſettled, I may hope to live quietly in *England*, and then ſhall think it a ſeaſonable time to return. I have ſome inclinations this autumn to go to *Naples*, and from thence to *Sicily* and *Malta*, and to paſs the winter in ſome of thoſe places, and return to *Rome* in the ſpring. It is not uſual for me to look ſo many months before hand, nor poſſible to extend my ſight any further. I muſt then know from my friends at home, whether it be yet time to return thither; I have ever had it in my thoughts to chooſe that before any thing; but if it be ſtill inconvenient for me to take that reſolution, I muſt then think of making another pauſe at *Rome*, or ſome other place, that may prove convenient. I wrote two or three letters to your lordſhip, which deſerve at leaſt ſo much of an anſwer, as to know what your lordſhip

lordſhip will do in the ſubject of the one, and what directions you will be pleaſed to give me in thoſe things I mentioned in the other. The firſt was accompanied with two deeds, of which I received draughts from ſir *John Temple*, wherein I did make over unto ſome of your ſervants my right of redemption in two farms at *Swingfield*, hoping that your lordſhip will be pleaſed to redeem them. In the other, I ſent a liſt of books, deſiring your lordſhip's commands for providing ſo many of them as ſhould pleaſe you. I ſhould alſo be glad to know whether you received that wherein I mentioned the 12 cardinals. I give your lordſhip many thanks for the money ſent me by Mr. *Hoſkins*. I have received his bill, directed to the ſon of the old parſon, who hath dealt ſo ill with me concerning that, and a little more money which was ſent to me, that I think I ſhall be forced to proteſt the bills. I am glad your lordſhip hath the black gelding, I think he may be fit for your ſervice, for which he was firſt intended; if I have any other young horſes, or breeding mares, that may yet be uſeful, I beſeech your lordſhip to ſend ſome body down to the place where they are, and take as many as he likes. I know this is not now ſo much as a compliment, for they will be worth nothing to me; they that have robbed me of almoſt all I had will not leave me any thing that is worth taking: before all be gone, I wiſh your lordſhip would take ſo many as you ſhall care to have. I am ſure there were good ſtore of mares and colts, and I believe the beſt in *England* of that kind; but I do not know what remains. I did alſo many months ſince, ſend to Mr. *Hoſkins* to preſent your lordſhip with my ſables; but I hear nothing of the receipt of my letter; if it miſcarried, I do by this deſire your lordſhip to command him to deliver them to you. If I knew in what I might be ſerviceable to your lordſhip, I would be very induſtrious in improving any opportunity. I am

Your Lordſhip's, etc.

July $\frac{14}{24}$, 1661. Alg. Sydney.

A. SYDNEY TO HIS FATHER ROBERT EARL OF LEICESTER

My Lord,

I have written an extreme long letter unto your lordſhip, concerning a buſineſs of yours, I now begin another relating unto myſelf. I received the laſt week a letter from Mr. *Hoſkins*, who ſaid, that young *Culpepper* had a regiment of thoſe men reported to be raiſed for the ſervice of the emperor, who bid him tell me, that if I would engage myſelf in that buſineſs, I might have a good employment. I am not much inclined to believe thoſe men are intended for that ſervice, nor that thoſe who diſpoſe of the commands *will be willing to employ me*; nor if they were, ſhould I rely much upon the judgment of him that ſent the meſſage, nor enter far upon the treaty of a buſineſs of ſuch importance with him that conveyed it. I did therefore return no other anſwer unto him, than that I was not in a condition to refuſe a good employment; and if I might know in what company, and upon what terms I might have it, I would return a

ſpeedy anſwer. I have reflected upon this buſineſs ſince I wrote that letter, and joining it with ſome other circumſtances that have come to my knowledge, I incline to believe the propoſer did follow the directions of ſome perſon more important than himſelf, rather than his own opinion, which perſuades me to ſend a better anſwer. If there be any thing of reality in the propoſition, I can aſcribe it only to the deſire that thoſe in power may have, to ſend away thoſe that are ſuſpected by them. They ſhall have their end; I will ſerve them in it, if they pleaſe, and upon more eaſy terms than will be expected by others. I will undertake to tranſport a good ſtrong body of the beſt officers and ſoldiers of our old army, both horſe and foot. Though the obtaining of this would be a very conſiderable advantage unto me, and ſome of my friends, I do not aſk it as a favour; *I know neither they nor I ſhall receive any thing upon that account.* The firſt that I ever did aſk, and the leaſt that I ever can aſk, (I mean aſſurance of being permitted to live quietly for a few months at *Penſhurſt*) not having been granted, I am like to make few requeſts for the future. But as I think that the advantage which the king expects by ridding the land of thoſe perſons, is the motive upon which the offer was made, I believe it to be a very conſiderable one, for they who find themſelves ſuſpected may poſſibly grow unquiet; the deſtroying of them will be a work of time, and not without difficulty and danger, and it cannot be expected, that they will of their own accord leave their country, unleſs it be with ſome man, of whom they have a good opinion, and all thoſe are as little favoured as I am. I deſire your lordſhip to ſend for *Culpepper*, and know of him upon what ground he made the propoſition, and then to proceed as you ſhall think fit. If it be granted, it is well, and I hope to carry thoſe who will gain honour unto the nation, whereſoever they go, and either find fortunes for themſelves, or graces, which is as good, and it will be very ſuitable unto my intention, who as I told you in a letter about three weeks ſince, have thoughts of paſſing the next ſummer as a volunteer in *Hungary*. I doubt your lordſhip will be unwilling to propoſe this, leſt it ſhould make the king or his miniſters believe that I am upon better terms with my old companions than you would have them think me. I deſire your lordſhip to wave that ſcruple; *I have credit enough with them for ſuch a buſineſs as this is; and if I were not thought at court to have far more than I have, they would not trouble themſelves with me ſo much as they do.* Whatever it is, I deſire to make uſe of it, to carry me, and a good number of thoſe in the ſame condition, ſo far from *England*, that thoſe who hate us, may give over ſuſpecting us. I am

Your Lordſhip's, etc.

Bruſſels, $\frac{1}{11}$ Dec. 1663. Alg. Sydney.

I deſire your lordſhip will be pleaſed to ſend me an anſwer of this buſineſs as ſoon as you can, and to communicate this unto lord *Sunderland*.

LETTERS OF A. SYDNEY TO HENRY SAVILE AMBASSADOR IN FRANCE.

LETTERS OF ALGERNON SYDNEY TO HENRY SAVILE AMBASSADOR IN FRANCE*.

Sir, London, Feb. $\frac{5}{15}$, 1678-9.

I hope you will be ſo juſt unto me, as not to think I gave over writing unto you during the ſitting of the parliament, becauſe I did not in a good while receive an anſwer unto my firſt letter. *I ſeldom ſtand upon ſuch ceremonies, and never with thoſe who have obliged me, as you have done.* The truth is, ſome of your friends, and mine, were ſo entangled in buſineſs then upon the ſtage, that I could ſay nothing to the purpoſe, without mentioning them; and the parts they had taken upon themſelves were ſuch as I was unwilling to relate. The reſult of all this is, that the lord Sunderland is out of his place and the council: the lord Conway ſucceeds him, and hath the ſeals. Eſſex is alſo put out of the council and lieutenancy of Hertfordſhire, upon preſenting a petition from the lords. Godolphin hoped to have had the honour of accompanying them in their diſgrace; but Temple only hath it. The council being hereby weakened is reinforced by the admiſſion of the earls of Oxford, Cheſterfield and Ayleſbury; and it is hoped that, to render it complete, the lords Berkeley, Craven and Arundel of Trerice, ſhall be called. The lord Halifax is gone to ruminate upon theſe matters at Rufford, and ſays he will not return ſouthward, until the parliament meet at Oxford. The fruits expected from the laſt parliament having been loſt by little underhand bargains, and, as ſome ſay, the king and parliament equally betrayed by thoſe that were truſted by them, mens minds ſeem to be filled with various conceits, and many jealouſies. Some think, the writs for calling the parliament are in themſelves void, as being without advice of council; and that the law takes notice of nothing done by the king, *ſine ſapientum et magnatum conſilio:* or that if it ſhould meet at *Oxford*, its acts would be void, or ſubject to be vacated for want of the freedom of voting, which is eſſential unto it. Others ſay, the validity of the writs depends ſolely upon the *perſon* of the king, and that others ought to think themſelves ſafe, where he is ſafe, though their danger be from him. I know not what this will produce, but I never ſaw mens minds more heated than at preſent; and cannot think that portends leſs evil than the *comet*. People are every where buſy in chooſing parliament men of their own principles, and they will probably be like unto the laſt; but it is thought, many officers will be prevailed with to make *falſe returns*. I hear of no election paſſed, but that of *Amerſham*. Of thoſe who by the laſt parliament were there judged capable of giving their voices, Sir Robert Hill had forty; Mr. Sydney ſeven and thirty; Sir Joſeph Drake twenty eight; Mr.

* Henry Savile was younger brother to George Lord Halifax, created afterwards earl, and marquis of Halifax.

Cheyney tweny nine; but the conſtables have been pleaſed to return the two latter. To-morrow is appointed for the election of the *city-members*, who, people believe, will be the ſame as formerly. Some think his royal highneſs * hath buſineſs enough to employ his thoughts: others ſay, he is at ſuch perfect leiſure, that the maid of honour, who accompanied him, cannot employ all his ſpare time; and for that reaſon, or to give her time to lay aſide ſomething that troubled her, he applies himſelf to a young gentlewoman, who with much reſpect and gratitude, receives the honour he is pleaſed to do her; but ſhe hath an old crabbed huſband, who doth not take that for a juſt recompence of the great reſpect he hath ſhewed unto his royal highneſs, and is not likely to learn better manners from his Preſbyterian brethren.

Notwithſtanding what is ſaid, we good ſubjects hope all will go perfectly well. His majeſty, as is ſaid, reſolves to reform his court, that all ſhall be of one mind. Mr. Seymour, being now looked upon as the greateſt man, brings his two friends Conway and Ranelagh into the management of buſineſs; and the firſt of theſe being as eminent for fineſſe of wit, quickneſs and eaſineſs in ſtate affairs, as the other in the excellency of all moral virtues, things cannot but go well; and we particularly hope that England will keep up its reputation of being, as the cardinal Pallavicini ſays, the *mother* and *nurſe of the beſt wits in the world*, when all foreign miniſters ſhall come to treat with Jenkins and Conway, who will be taken for patterns of the genius of the nation, and not thought the only men it produceth, that deſerve the higheſt praiſes; and leſt any thing ſhould be wanting, Mr. Hide is joined unto theſe. It is true that we have not of our nation, a man to put at the head of the ſoldiers, as admirable in military ſkill and virtues, as thoſe above-mentioned are in civils and morals: but the knowledge of our own defects, the ſagacity of diſcovering in the earl of Feverſham the qualities which we have not, and the prudent humility of ſubmitting unto him that is bleſſed with them, though a ſtranger, deſerves ſome commendations: and I am confident, *that when things ſhall be brought unto ſuch order, that a Papiſt may appear open-faced*, we ſhall ſhew as great reſpect unto the lord Dunbarton. France and Germany, that are full of their trophies, cannot but admire this, whilſt we reſt ſecure under their ſhadow. Fit men may more eaſily be found for leſs eminent places; and the earl of Thanet, as is ſaid, ſhall ſucceed Mr. Ruſſel in the command of the foot guards. Civil and military affairs being thus ſettled, treaſures flowing in unto us on all ſides, and all foreign princes, concerned in our affairs, being ſure unto us, we need not fear a few *diſcontented lords*, a *mutinous city*, or *murmuring counties*; and preſuming that the vaſt ma-

* See where the duke in divan damn'd does ſit,
To's vaſt deſigns racking his pigmy wit;
Whilſt a choice ſenate of *th' Ignatian crew*
The ways to murder, treaſon, conqueſt ſhew.
State Poems by *A. Marvell.*

gazines

gazines of arms made at Breſt, and ſome that with a good quantity of ammunition were lately ſent into *Ireland*, are in purſuance of agreements made with you, we cannot but think all will tend to our good. I am

Your moſt humble and faithful ſervant.

Sir, London, Feb. 10, 1678-9.

I hope you will excuſe the trouble I give you, in encloſing this, and deſire you to ſend it forward into Gaſcony. It is a climate where I cannot be ſuſpected of ſending any thing of a dangerous nature; but we have ſo many at the poſt-houſe infected with the moſt impertinent folly, that a packet though directed thither can hardly paſs unviſited, unleſs the perſon to whom it is directed do protect it.

The laſt reſolutions of the city, have been as pleaſing to the county as diſtaſteful to the court. Yeſterday the company of artillery intended to have choſen prince Rupert to be their captain, and Sir Thomas Player their leader; but a letter was produced from the king, rather deſiring than commanding that no new officers ſhould be choſen; and they, *having no conſtitution beyond an act of king and council, depending upon his majeſty's will, did unwillingly obey.*

Parliament-men are for the moſt part choſen by the parties moſt contrary to the court, and many believe this next houſe of commons will not be at all more pliable than the laſt. Sir William Waller and Poultney were this day choſen at Weſtminſter without any oppoſition. Col. Titus and Sir Thomas Proby were with the ſame facility choſen knights of Huntingtonſhire; Hambden the elder, and Wharton, of Buckinghamſhire; with a multitude of others.

The lady Portſmouth is ſaid to have entirely recovered her loſt favour. The earl of Sunderland is at his houſe in Queen-ſtreet. The lady Halifax, on Tueſday, followed her lord to Rufford. I am,

Your moſt humble and faithful ſervant.

Sir, London, April $\frac{7}{17}$, 1679.

Being conſcious unto myſelf, that what I could ſay of buſineſs now upon the ſtage would be of little uſe unto you, I thought it fitter for me to be one of the laſt in writing to you, than to take place according to my deſire of ſerving you, which would ſuffer me to yield to none; but leſt this acknowledgment ſhould be taken for a pretence to cover lazineſs, I will here give you ſuch a ſight of things as I have; and intend to continue to do the like as often as I can without troubling you. You will have heard from all hands, what temper the houſe of commons appears to be of, and that the earl of Danby hath accompliſhed his promiſe of bringing it into an entire ſubjection unto the king's will, as well as the other two points,

of paying his majeſty's debts, encreaſing his treaſure, and rendering him conſiderable among his neighbouring princes; which are verified in leaving twenty two ſhillings and ten pence in the exchequer, two and forty hundred thouſand pounds of paſſive debts, and the revenue anticipated for almoſt a year and half, and the account his lordſhip was pleaſed to give in his ſpeech to the peers, of the eſteem the king of France had for his perſon and government. Notwithſtanding all this, he is ſo far conſidered at court, that his concernments are a general obſtruction to all buſineſſes. The lord Berkeley, Frécheville, and others of the learned, think he hath behaved himſelf ſo well, as to deſerve no puniſhment, and therefore oppoſed the commitment of the bill of attainder, that it might be caſt out: Shaftſbury, Eſſex and Halifax differing ſomething in opinion from them, in compliance unto the king's deſires, did, as an amendment, wipe out the word *attainder*, and made it almoſt the ſame with that which their lordſhips had formerly ſent up to baniſh him, and declaring him attainted only if he came into England after the firſt of May next: the conſideration of which buſineſs is likely this day to poſſeſs the houſe of commons, and if their mind be known before this letter be ſealed, it ſhall be inſerted.

The next important point likely to be purſued is, to proſecute the laſt week's vote, *that all the forces now in England, * except the trained bands,*

[* *Except the trained bands, were kept up contrary to law.*]

Sir Robert Atkins, in his remarks on Lord Ruſſel's indictment, wherein *the attempting to ſeize and deſtroy the king's guards was laid as an overt act of treaſon*, aſks, "The guards, what guards? what or whom does the law underſtand or allow to be the king's guards, for the preſervation of his perſon? Whom ſhall the court that tried this NOBLE lord, whom ſhall the judges of the law, that were then preſent and upon their oaths, whom ſhall they judge, or legally underſtand by theſe guards? They never read of them in all their law books. There is not any ſtatute law that makes the leaſt mention of any ſuch guards; and therefore the indictment is uncertain and void.

The king is guarded by the ſpecial protection of Almighty God, by whom he reigns, and whoſe Vicegerent he is. He has an inviſible guard, a guard of glorious angels.

Non eget Mauri jaculis, neque arcu,
Nec venenatis gravidâ ſagittis,
Crede, pharetrâ.

The king is guarded by the love of his ſubjects, the next under God, *and the ſureſt guard.* He is guarded by the Law and the Courts of Juſtice. The Militia and the *Trained Bands* are his legal guard, and the whole kingdom's guard. The very Judges that tried this noble Lord were the King's guards and the Kingdom's guards; and this Lord Ruſſel's guard againſt all erroneous and imperfect indictments, from all falſe evidence and proof, from all ſtrains of wit and oratory miſapplied and abuſed by Council.

What other guards are there? We know of no law for more. King Henry VII. of this Kingdom, as hiſtory tells us, was *the firſt* that ſet up the Band of Penſioners. Since this, the Yeomen of the Guard; ſince them, certain armed bands, commonly now a days, *after the French mode*, called the King's life guard, rid about, and appearing with naked ſwords to the terror of the Nation: but where is the law? where is the authority for them?

See "Parliamentary and political tracts" by Sir Robert Atkins, [*the upright*] Lord chief Baron of the Exchequer, in that tract intitled "A Defence of the late Lord Ruſſel's innocency." p. 359.

Our *trained bands* are the truſtieſt and moſt proper ſtrength of a free Nation not at war within itſelf. Eikonoklaſtes of John Milton.

bands, were kept up contrary to law; and though it was objected that the king's guards and the garriſons of Portſmouth and other places would be included, it was anſwered, *that kings governing juſtly according to law had no need of cuſtodia corporis*; and that it was better to have no garriſons at all, than ſuch as were commanded by Legg, Holmes, and their peers.

The controverſy concerning the election at Grinſtead, was determined at the committee in favour of Mr. Powell, choſen by the commons, and Thomas Pelham, by the major part of the corporation, no complaint being made againſt him. Powell chooſing to ſtand as he is choſen for Cirenceſter, the diſpute upon the new election is like to be between Scroggs and Sir Thomas Littleton, who is like to have the aſſiſtance of the Dorſet family, the Pelhams, and ſome others. On Friday laſt, the ſame committee voted the right of election at Windſor to be in the commons; and that Ernely and his companion having been unduly choſen by the corporation, a new election ſhould be made; but the houſe approving of the firſt part only, annulled the election of Ernely and the other, and approved that of Windhood and Storkey.

All foreign affairs are at a ſtand, only Van Beuninghen takes great pains to make people believe the king of France intends to add England unto his other conqueſts, and diſabuſe ſuch as were ſo fooliſh as to believe there was any thing of truth in the reports of thoſe that had ſpoken of the popiſh plot; and finding me infected with the ſame opinion, with ſome of my friends, he was pleaſed to ſpend two hours the other day in the park, to convince me of my error, in which he did ſucceed as well as he uſed to do in his great deſigns.

The king certainly inclines not to be ſo ſtiff as formerly *in advancing only thoſe that exalt prerogative**; but the earl of Eſſex, and ſome others that

[* *In advancing only thoſe that exalt prerogative.*]

Noble Venetian. Now, Sir, I think we are at an end of our Queſtions, and I, for my part, am convinced, that as the King cannot better himſelf any way by falling out with his people at this time, ſo that his goodneſs and wiſdom is ſuch, that he will rather chooſe to imitate the moſt glorious and generous of his predeceſſors, as Edward the firſt and Edward the third [who, it had been before obſerved, had very great demands made them by Parliaments *and granted them all*] than thoſe that were of leſs worth and more unfortunate, as Edward the Second, and Richard the Second. And therefore we are now ready to hear what you will think fit to aſk of ſo excellent a prince.

Engliſh Gentleman. I never undertook to be ſo preſumptuous. There is a parliament to ſit ſpeedily, and certainly they are the fitteſt every way to ſearch into ſuch matters; and to anticipate their wiſdom would be unreaſonable, and give them juſt offence. But becauſe all this tittle tattle may not go for nothing, I ſhall preſume to give you my thoughts how the cure muſt be wrought, without deſcending to particulars. *The cauſe immediate*, as we have ſaid, *of our diſeaſe, is the inexecution of our laws; and it is moſt true, that when that is altered for the better, and all our laws are duly executed, we are in health.* For as we never can have the entire benefit of them till our government is upon a right baſis; ſo whenever we enjoy this happineſs to have the full benefit of thoſe conſtitutions which were made by our anceſtors for our ſafe and orderly living, our government is upon a right baſis; therefore we muſt enquire into the cauſe why our laws are not executed, and when you have found and taken away that cauſe, all is well. The cauſe can be no other than this, that the king is told and does believe, that moſt of

theſe

that are coming into play thereupon, cannot avoid being ſuſpected of having intentions different from what they have hitherto profeſſed.

The earl of Ormond's miſcarriages are ſo extreme, and his favour to the Iriſh ſo apparent, that few believe he can continue in the government of Ireland. Some ſpeak of three juſtices and a good commander of the army, wholly fixed upon an Engliſh intereſt; but if a lieutenant be ſent, I believe it will be Eſſex or Halifax.

That you may ſee the good humour we are in, I here incloſed ſend you a piece of poetry given unto me by a friend of yours; and if you have not ſeen another, which is the ſpeech of Hodge the clown from the top

theſe great charters or rights of the people, of which we now chiefly treat, are againſt his Majeſty's intereſt; *though this be very falſe*, as has been ſaid, yet we will not diſpute it at this time, but take it for granted, ſo that the King having the ſupreme execution of the laws in his hand, cannot be reaſonably ſuppoſed to be willing to execute them whenever he can chooſe whether he will do it or no, it being natural for every man not to do any thing againſt his own intereſt when he can help it. Now when you have thought well what it ſhould be *that gives the King a liberty to chooſe whether any part of the law ſhall be current or no*, you will find, that it is the great power the king enjoys in the government. When the Parliament has diſcovered this, *they will no doubt demand of his Majeſty, an abatement of his royal prerogative in thoſe matters only which concern our enjoyment of our all, that is our lives, liberties and eſtates; and leave his royal power entire and untouched in all the other branches of it.* When this is done, we ſhall be as if ſome great hero had performed the adventure of diſſolving the inchantment we have been under for ſo many years; and all our ſtatutes, from the higheſt to the loweſt, from *Magna Charta* to that for burying in woollen, *will be current; and we ſhall neither fear the bringing in of Popery; nor arbitrary power in the intervals of parliament; neither will there be any diſſentions in them; all cauſes of factions between the Country and Court party being entirely aboliſhed, ſo that the people ſhall have no reaſon to diſtruſt their prince, nor he them.*

Doctor. You make us a fine golden age; but after all this, will you not be pleaſed to ſhew us a ſmall proſpect of this Canaan or country of reſt; will you not vouchſafe to particularize a little what powers there are in the King which you would have diſcontinued? Would you have ſuch prerogatives aboliſhed or placed elſewhere?

Engliſh Gentleman. There can be no government if they be aboliſhed. But I will not be like a man who refuſes to ſing among his friends, at their entreaty, becauſe he has an ill voice; I will rather ſuffer myſelf to be laughed at by you in delivering my ſmall judgment in this matter, but ſtill with this proteſtation, that I do believe, that an infinity of men better qualified than myſelf for ſuch ſublime matters, and much more the Houſe of Commons, who repreſent the wiſdom as well as the power of this Kingdom, may find out a far better way, than my poor parts and capacity can ſuggeſt. The powers then, which, now being in the Crown, do hinder the execution of our laws and prevent by conſequence our happineſs and ſettlement, are four. The abſolute power of making war and peace, treaties and alliances with all nations in the world; by which means, by ignorant Counſellors or wicked Miniſters, many of our former Kings have made confederations and wars, very contrary and deſtructive to the intereſt of England, and by the unfortunate management of them have often put the Kingdom in great hazard of invaſion. Beſides that, as long as there is a diſtinction made between the Court party and that of the Country, there will ever be a jealouſy in the People, that theſe wicked Counſellors, who may think they can be ſafe no other way, will make alliances with powerful princes, in which there may be a ſecret article by which thoſe Princes ſhall ſtipulate to aſſiſt them with forces upon a ſhort warning to curb the Parliament, and poſſibly, to change the government. And this apprehenſion in the People will be the leſs unreaſonable, becauſe Oliver Cromwell, the great pattern of ſome of our Courtiers, is notoriouſly known to have inſerted an article in his treaty with Cardinal Mazarin, during this King of France's minority, that he ſhould be aſſiſted with ten thouſand

top of the pyramid, [*by A. Marvell*] I will endeavour to ſend it unto you.

The houſe of commons have this day preſented unto the lords, the articles drawn againſt the five lords in the Tower. I alſo hear juſt now, that they do adhere to the bill of attainder of the earl of Danby, and will no ways admit of the lords amendments of it. One Reading, a lawyer, not long ſince offered four thouſand pounds, and three hundred pounds a year in land to Bedloe, if he would diſavow the teſtimony he had given againſt the lords of Powis, Bellaſis and Peters; which being communicated unto prince Robert and the earl of Eſſex, he

men from France,* upon occaſion, to preſerve and defend him in his uſurped government, againſt his Majeſty that now is, or the People of England, or in fine his own army, whoſe revolt he often feared. The ſecond great prerogative the King enjoys, is the ſole diſpoſal and ordering of the Militia by ſea and land, raiſing forces, gariſoning and fortifying places, ſetting out ſhips of war, ſo far as he can do all this without putting taxations upon the people; and this not only in the intervals of Parliament, but even during their ſeſſion, ſo that they cannot raiſe the trained bands of the Country or City to guard themſelves, or ſecure the peace of the Kingdom. The third point is, that it is in his Majeſty's power to nominate and appoint, as he pleaſes and for what time he thinks fit, all the officers of the kingdom that are of truſt or profit, both civil, military and eccleſiaſtical, as they will be called, except where there is Jus Patronatus. Theſe two laſt powers may furniſh a Prince who will hearken to ill deſigning Counſellors, with the means of either invading the government by force, or by his judges and other creatures undermining it by fraud; eſpecially by enjoying the fourth advantage, which is the laying out and imploying, as he pleaſes, all the public Revenues of the Crown and Kingdom, and that without having any regard, except he thinks fit, to the neceſſity of the navy or any other thing that concerns the ſafety of the public. *So that all theſe four great powers, as things now ſtand, may be adoperated at any time, as well to deſtroy and ruin the good order and government of the State, as to preſerve and ſupport it, as they ought to do.*

Noble Venetian. But if you diveſt the King of theſe powers, will you have the Parliament ſit always to govern theſe matters.

Engliſh Gentleman. Sir, I would not diveſt the King of them, much leſs would I have the Parliament aſſume them or perpetuate their ſitting. They are a body more fitted to make laws, and puniſh the breakers of them, than to execute them. I would have them therefore petition his Majeſty, by way of bill, that he will pleaſe to exerciſe theſe four great *Magnalia* of Government, with the conſent of four ſeveral Councils to be appointed for that end, and not otherwiſe; that is, with the conſent of the major part of them, if any of them diſſent. In all which councils, his Majeſty, or who he pleaſes to appoint, ſhall preſide; the Councils to be named in Parliament, firſt all the number, and every year afterwards a third part; ſo that each year a third part ſhall go out, and a recruit of an equal number come in; and in three years they ſhall be all new: and no perſon to come into that Council, or any other of the four, till he have kept out of any of them full three years, being as long as he was in. And this I learnt from your Quarantia's at Venice; and the uſe is excellent; for being in ſuch a circulation, and ſure to have their intervals of power, they will neither grow ſo inſolent as to brave their King, nor will the Prince have any occaſion to corrupt them, although he had the means to do it, which in this new model he cannot have. Theſe men in their ſeveral Councils ſhould have no other inſtructions, but to diſpoſe of all things and act in their ſeveral charges, *for the intereſt and glory of England*; and ſhall be anſwerable to Parliament, from time to time, for any malicious or adviſed miſdemeanour. Only that Council which manages the public revenue, ſhall (beſides a very copious and honorable revenue which ſhall be left to his Majeſty's diſpoſal for his own entertainment, as belongs to the ſplendor and majeſty of the government) have inſtructions to ſerve his Majeſty (if he

he brought Reading by their advice into a place, where two witneſſes heard him; whereupon Reading was apprehended, and he having found means whilſt he was in the ſerjeant's hands to ſend a letter to his wife, to be delivered to Mr. Chyvins (deſiring to be admitted to the king's preſence, promiſing to tell great matters) his majeſty refers him wholly to the houſe of commons, and offers to iſſue out a commiſſion of oyer and terminer for his trial, which will be very ſpeedy, if he ſave not himſelf by diſcoveries: this morning a letter was intercepted written to him by his wife, wherein ſhe tells him, that every body ſays he is a rogue, and if he doth not confeſs all, he will be hanged, and ſhe together with her children ruined. I am,

Your moſt humble ſervant.

he pleaſes to command them and not otherwiſe) in the regulating and ordering his Oeconomy and Houſhold; and, if they ſhall ſee it neceſſary, for extraordinary occaſions of treating foreign Princes and Ambaſſadors, or preſenting them, and the like oſtentation of greatneſs, to conſent with his Majeſty moderately to charge the Revenue to that end. I verily believe, that this expedient is much more effectual than either the Juſtitia of Aragon was, or the Ephori of Sparta; who being to check the King almoſt in every thing, without having any ſhare in his Councils or underſtanding them, could not chooſe but make a ſullen poſture of affairs: whereas theſe both ſeem and really are the King's miniſters, only obliged by Parliament to act faithfully and honeſtly, to which, even without that, all other Counſellors are bound by oath. As for the other Council, now called the Privy Council, the King may ſtill continue to nominate them at his pleaſure; ſo they act nothing in any of the matters properly within the juriſdiction of theſe four councils, but meddle with the affairs of merchants, plantations, charters, and other matters, to which the regal power extendeth. And, provided, that his Majeſty call none of the perſons employed in theſe other four councils during their being ſo; nor that this Council do any way intermeddle with any affairs, criminal or civil, which are to be decided by law, and do belong to the juriſdiction of other Courts or Magiſtrates; they being no eſtabliſhed judicatory or congregation, which either our government or laws do take notice of, as was ſaid before, but perſons congregated by the King, as his friends and faithful ſubjects, to give him their opinion in the execution of his regal office. As for example, the King does exerciſe, at this time, a negative voice as to bills preſented him by Parliament, which he claims by right; no man ever ſaid that the privy council had a negative voice; yet former Kings did not only aſk their advice as to the paſſing or not paſſing of ſuch bills, but often decided the matter by their votes; which, although it be a high preſumption in them, when they venture to give him counſel contrary to what is given him by his great council, yet never any of them have been queſtioned for it, being looked upon as private men, who ſpeak according to the beſt of their cunning, and ſuch as have no public capacity at all. But if this be not ſo, and that this council have ſome foundation in law, and ſome public capacity, I wiſh in this new ſettlement it may be made otherwiſe, and that his Majeſty pleaſe to take their counſel in private, but ſummon no perſons to appear before them; much leſs give them authority to ſend for in cuſtody or impriſon any ſubject, which may as well be done by the judges and magiſtrates, who, if ſecrecy be required, may as well be ſworn to ſecrecy as theſe Gentlemen, and I believe can keep counſel as well and give it too.

Noble Venetian. But would you have none to manage ſtate affairs, none impriſoned for ſecret conſpiracies, and kept till they can be fully diſcovered? You have made an act here lately about Impriſonments, that every perſon ſhall have his *Habeas Corpus*, I think you call it; ſo that no man, for what occaſion ſoever, can lie in priſon above a night, but the cauſe muſt be revealed, though there be great cauſe for the concealing it.

Engliſh Gentleman. This act you mention and a great many more which we have to the ſame purpoſe, that is, againſt illegal impriſonments, ſhews, that for a long time the power

Sir, London, April $\frac{21}{31}$.

You are ſo much afore-hand in obliging me when I moſt wanted a friend, that I cannot hope in a long time to pay my debt, though I were in a place that gave me more advantages, than any I can ever reaſonably expect; but you may ever be ſure of all that is within my reach. I write now in ſome haſte, but am unwilling this poſt ſhould go without a letter from me. I preſume you know that the earl of Danby rendered himſelf to the black rod on Wedneſday laſt; and that deſiring of the lords at the bar, that for his health he might be ſuffered to continue under his cuſtody; that he might have recourſe, as often as occaſion ſhould require, to all ſtate

power over men's perſons has been exerciſed, under his Majeſty, by ſuch as were very likely rather to employ it ill than well; that is, would rather impriſon ten men for honourable actions, ſuch as ſtanding for the people's rights in Parliament, refuſing to pay illegal taxes and the like, than one for projecting and inventing illegal monopolies, or any other kind of oppreſſing of the People. This made firſt *Magna Charta*, then the *Petition of Right*, and divers acts beſides this laſt, take that Power quite away, *and make the law and the judges the only diſpoſers of the liberties of our perſons.* And it may be, when the Parliament ſhall ſee the fruit of this alteration we are now diſcourſing of, and that ſtate affairs are in better hands, they may think fit to provide, that a return or warrant of impriſonment from one of theſe four Councils (which I ſuppoſe will have a power of commitment given them as to perſons appearing delinquents before them) wherein it ſhall be expreſſed that the Public is like to ſuffer or be defrauded if the matter be immediately divulged, I ſay in this caſe, the Parliament may pleaſe to make it lawful for the Judge to delay the bailing of him for ſome *ſmall time; becauſe it is not* to be judged, that theſe counſellors ſo choſen and ſo inſtructed, and to continue ſo *ſmall a time*, will uſe their power ill, eſpecially being accountable for any abuſing of it to the next Parliament. And I ſuppoſe the Parliament, amongſt other proviſions in this behalf, will require that there ſhall be a regiſter kept of all the votes of theſe ſeveral Councils, with the names of thoſe who conſented, as of ſuch who diſſented. As to the former part of your queſtion, whether I would have none to manage State affairs? I think there are very few State affairs that do not concern either peace and war, and treaties abroad; the management of the arms, militia and poſſe comitatus at home; the management of all the public monies, and the election of all officers whatſoever. The other parts of State affairs, which are making and repealing of laws, puniſhing high crimes againſt the State, with levying and proportioning all manner of impoſitions upon the People, this is reſerved to the Parliament itſelf; and the execution of all laws to the judges and magiſtrates: and I can think of no other affairs of State than theſe.

Doctor. Do you intend that the Council for chooſing officers ſhall elect them of the king's houſhold, that is his menial ſervants?

Engliſh Gentleman. No, that were unreaſonable, except any of them have any juriſdiction in the Kingdom or any place or pre-eminence in Parliament annexed to ſuch office. But in theſe things which concern the powers and juriſdictions of theſe ſeveral Councils, wherein, LA GVARDIA DELLA LIBERTA, as Machiavel calls it, is now to be placed, I ſhall not preſume to ſay any thing; but aſſure yourſelf, if ever it come to that, it will be very well digeſted in Parliament, they being very good at contriving ſuch matters and making them practicable, as well as at performing all other matters that concern the intereſt and greatneſs of the kingdom.

Doctor. I have thought that the Ephores of Sparta were an admirable magiſtracy, not only for the intereſt of the people, but likewiſe for the preſervation of the authority of the Kings and of their lives too. For Plutarch obſerves, that the cities of Meſſene and Argos had the ſame government with Lacedemon; and yet for want of erecting ſuch an authority as was in the Ephores, they were not only perpetually in broils amongſt themſelves, and for that reaſon ever beaten by their enemies, whereas the Spartans were always victorious, but even their Kings were the moſt miſerable of men, being often called in queſtion judicially and ſo loſt their lives, and many of them murdered by inſurrections of the People: And at laſt in

ſtate papers that were neceſſary to him in making his defence; that he might at once have a copy of all his charge, and be obliged not to anſwer to any part, until the whole were before him; and that he might have ſerjeant Weſton, ſerjeant Raymond, Mr. Saunders and Mr. Holt aſſigned unto him for counſel: he received no other anſwer, than that if he told what papers he deſired, the houſe would do as was uſual in thoſe caſes; that the houſe of commons could not be abridged of the liberty retained to itſelf, of bringing in additional charges, if it were thought fit; that he might have for his counſel, ſuch of thoſe he had named as were not of the king's; and that he muſt be committed to the Tower, where Cheeke received

both theſe cities, the Kings were driven out, their families extirpated, the territory new divided, and the government turned into a Democracy. *And I ever thought that this expedient you propoſe*, for I have heard you diſcourſe of it often before now, *would prove a more ſafe and a more noble reformation than the inſtitution of Ephores was, and that a Prince who is a lover of his country, who is gracious, wiſe and juſt*, ſuch a one as it has pleaſed God to ſend us at this time, *ſhall be ten times more abſolute when this regulation is made, than ever he was or could be before; and that whatſoever he propoſes in any of theſe Councils will be received as a law, nay as an oracle: And on the other ſide, ill and weak Princes ſhall have no poſſibility of corrupting men, or doing either themſelves or their People any kind of harm or miſchief.* But have you done now?

Engliſh Gentleman. No, Sir, when this proviſion is made for the execution of the laws, which I think very effectual not to ſay infallible, although it is not to be doubted, but that there will be from time to time many excellent laws enacted, yet two I would have paſſed immediately. The one concerning the whole regulation of the elections to Parliament, which we need very much, and no doubt but it will be well done. That part which is neceſſary to go hand in hand with our ſettlement and which indeed muſt be part of it, is, that a Parliament be elected every year at a certain day, and that without any writ or ſummons, the People meeting of courſe at the time appointed in the uſual place, as they do in pariſhes at the Church-houſe to chooſe officers, and that the ſheriffs be there ready to preſide and to certify the election. And that the Parliament ſo choſen ſhall meet at the time appointed, and ſit and adjourn as their buſineſs is more or leſs urgent; but ſtill ſetting yet a time for their coming together again: but if there ſhall be a neceſſity, by reaſon of invaſion or ſome other cauſe, for their aſſembling ſooner, then the King to call the Counſellors of theſe four Councils all together, and with the conſent of the major part of them, intimate their meeting ſooner; but when the day comes for the annual meeting of another Parliament, they muſt be underſtood to be diſſolved in law, without any other ceremony, and the new one to take their place.

Doctor. I would have this conſidered too and provided for, that no election ſhould be made of any perſon who had not the majority of the Electors preſent to vote for him; ſo the writ orders it and ſo reaſon dictates; for elſe how can he be ſaid to repreſent the County, if not a fifth part have conſented to his choice, as happens ſometimes and may do oftener? for where ſeven or eight ſtand for one vacant place, as I have known in our laſt Long Parliament, where the votes being ſet in columns, he who has held moſt votes, has not exceeded four hundred of above two thouſand who were preſent.

Noble Venetian. This is a ſtrange way. I thought you had put every man by himſelf, as we do in our government, and as I underſtood they do in the Houſe of Commons, when there is any nomination, and then, if he has not the major part, he is rejected.

Engliſh Gentleman. This is very material and indeed eſſential; but I make no doubt, but if this project ſhould come in play in Parliament, this and all other particulars which would be both needleſs and tedious to diſcourſe of here, will be well and effectually provided for. The next act I would have paſſed, ſhould be concerning the Houſe of Peers, that, as I take it for granted, there will be a clauſe in the Bill concerning elections, that no new Boroughs ſhall be enabled to ſend Members to Parliament except they ſhall be capacitated thereunto by an act; ſo, it being of the ſame neceſſity, as to the Liberty of Parliament,

received him. Subtle men find great myſteries in his rendering himſelf, and make the king to be of the plot; but thoſe that ſee no farther than I, believe he hath had in this, and all his buſineſſes of late, no other counſel than his lady.

You will perhaps be ſurprized to hear, that yeſterday the king did entirely diſſolve his old privy council, and choſe a new one, conſiſting of fifteen officers of the crown, ten lords, and five commoners; his majeſty retaining unto himſelf the liberty of naming a preſident, calling ſuch princes of the blood, as ſhould be from time to time; and the ſecretary of Scotland for the time being, if he thought fit; declaring moreover, that

Parliament, that the Peers (who do and muſt enjoy both a negative and a deliberative voice in all Parliamentary tranſactions except what concern levying of money originally) be exempted from depending abſolutely upon the Prince, and that therefore it be declared by act, for the future, that no Peer ſhall be made but by act of Parliament, and then that it be hereditary in his male line.

Noble Venetian. I am not yet fully ſatisfied how you can order your matters concerning this Houſe of Peers; nor do I ſee how the conteſts between the Houſe of Commons and them, can be ſo laid aſleep but that they will riſe again. Beſides, the Houſe of Commons muſt neceſſarily be extremely concerned to find the Houſe of Peers, which conſiſts of private perſons though very great and honourable ones, in an inſtant daſh all that they have been ſo long hammering for the good of all the People of England whom they repreſent. Were it not better, now you are upon ſo great alterations, to make an annual elective Senate, or at leaſt one wherein the Members ſhould be but for life and not hereditary.

Engliſh Gentleman. By no means, Sir, the leſs change the better, and in this caſe the metaphyſical maxim is more true than in any, viz. *Entia non ſunt multiplicanda ſine neceſſitate*; for great alterations fright men and puzzle them, and there is no need of it at all in this caſe. I have told you before, that there is a neceſſity of a Senate, and how ſhort this government would be without it, and how confuſed in the mean time. The Roman Senate was hereditary amongſt the Patricii, except the Cenſor left any of them out of the roll during his Magiſtracy for ſome very great and ſcandalous offence; and in that caſe too there was an appeal to the People, as in all other cauſes, witneſs the caſe of Lucius Quintius and many others. To ſhew that there can be no need of ſuch a change here as you ſpeak of, you may pleaſe to conſider, that all differences between the ſeveral parts of any government come upon the account of intereſt; now when this ſettlement is made, the Houſe of Peers and the Houſe of Commons, can have no intereſt to diſſent: for as to all things of private intereſt, that is, the rights of Peers, both during the ſitting of Parliaments and in the intervals, is left to their own Houſe to judge of, as it is to the Houſe of Commons to judge of their own privileges. And as for the conteſt of the Peers juriſdiction as to appeals from Courts of equity, beſides that I would have that ſettled in the act which ſhould paſs concerning the Lords' houſe, I believe it will never happen more when the government is upon a right foundation; it having been hitherto fomented by two different Parties, the Court-party ſometimes blowing up that difference to break the Seſſion, leſt ſome good bills for the People ſhould paſs, or that the King by rejecting them might diſcontent his people, to avoid which *dilemma*, there needed no more but to procure ſome perſon to proſecute his appeal before the Lords: ſome honeſt Patriots afterwards poſſibly might uſe the ſame policy which they learnt from the Courtiers, to quaſh ſome very deſtructive bill in which they were out-voted in the Commons Houſe. Otherwiſe it is ſo far from the intereſt of the Commons to hinder appeals from Courts of equity, that there is none amongſt them, but know we are almoſt deſtroyed for want of it; and when they have conſidered well, and that ſome ſuch reformation as this ſhall take place, they will find, that it can never be placed in a more honourable and unbiaſſed judicatory than this. And I could wiſh, that even in the intermiſſion of Parliamentary ſeſſions, the whole Peerage of England, as many of them as can conveniently be in town, may ſit in their judicial capacities, and hear appeals in equity as well as judge upon writs of error. Now, as to your

that whenever any place ſhould be vacant, he would name none withou the advice of the council; and that the perſon named ſhould be called by a letter ſubſcribed by them all. To which he was pleaſed to add, That he would have no *firſt* or *principal miniſter*, no committee of foreign affairs, or cabinet council; but that in all things he would follow and rely upon their advice, next unto that of his great council, the parliaments, which was alſo ſpecified in the letter ſent by his majeſty for the calling of every one of them, who are now to ſerve in council. The officers, who by their places are to be of the council (as I remember) are the chancellor, chief juſtice, privy ſeal, Ormond ſteward, Arlington chamberlain,

other objection, which is indeed of great weight, that the Houſe of Commons muſt needs take it ill, that the Lords ſhould fruſtrate their endeavours for the People's good by their negatives; if you conſider one thing, the force of this objection will vaniſh, which is, that when this new conſtitution ſhall be admitted, the Lords cannot have any intereſt or temptation to differ with the Commons in any thing wherein the public good is concerned, but are obliged by all the ties of the world, to run the ſame courſe and fortune with the Commons, their intereſt being exactly the ſame: ſo that if there be any diſſenting upon bills between the two houſes when each of them ſhall think their own expedient conduces moſt to the advantage of the publick; this difference will ever be decided by right reaſon at conferences, and the Lords may as well convince the Commons as be convinced by them. And theſe conteſts are and ever will be of admirable uſe and benefit to the Commonwealth. The reaſon why it is otherwiſe now, and that the Houſe of Peers is made uſe of to hinder many bills from paſſing that are ſuppoſed to be for the eaſe of the People, is, that the great Counſellors and Officers which ſit in that Houſe, do ſuggeſt, whether true or falſe, that it is againſt his Majeſty's will and intereſt that ſuch an act ſhould paſs, whereupon it has found obſtruction; but hereafter, if our expedient take place, it cannot be ſo. Firſt, becauſe our King himſelf cannot have any deſigns going, as was proved before, which ſhall make it his advantage to hinder any good intended his people, whoſe proſperity then will be his own. And then, becauſe in a ſhort time the Peers being made by act of Parliament, will conſiſt of the beſt men in England both for parts and eſtates; and thoſe who are already made, if any of them have ſmall eſtates, the King, if he had the intereſt, would not have the means to corrupt them, the publick monies and the great offices being to be diſpenſed in another manner than formerly: ſo their Lordſhips will have no motive in the world to ſteer their votes and councils, but their own honour and conſcience and the preſervation and proſperity of their Country. So that it would be both needleſs and unjuſt to pretend any change of this kind. Beſides, this alteration in the adminiſtration of our government being propoſed to be done by the unanimous conſent of King, Lords and Commons, and not otherwiſe, it would be very prepoſterous to believe, that the Peers would depoſe themſelves of their hereditary rights and betake themſelves to the hopes of being elected. It is true, they have loſt the power they had over the Commons, but that has not been taken from them by any law no more than it was given them by any, but is fallen by the courſe of nature, as has been ſhewn at large. But though they cannot lead the Commons by their tenures, as formerly, yet there is no reaſon or colour that they ſhould loſe their Co-ordination, which I am ſure they have by law and by the fundamental conſtitution of the government; and which is ſo far from being prejudicial to a laſting ſettlement, as was ſaid, that it infinitely contributes to it, and prevents the confuſion which would deſtroy it. If I ſhould have propoſed any thing in this diſcourſe which ſhould have intrenched upon the King's hereditary right, or that ſhould have hindered the Majeſty and greatneſs of theſe kingdoms from being repreſented by his royal perſon, I ſhould have made your ſtory of the Capuchine fryar very applicable to me.

Noble Venetian. I ſee you have not forgiven me that novel yet. But pray let me aſk you one queſtion, Why do you make the election of great officers to be by a ſmall ſecret Council that had been more proper for a numerous aſſembly, as it is in moſt Commonwealths?

Engliſh

chamberlain, Suſſex, as firſt commiſſioner of the treaſury, ſir Henry Capell as firſt commiſſioner of the Admiralty, the chancellor of the exchequer, the archbiſhop of Canterbury and biſhop of London, the two ſecretaries, and ſome others that I have forgot; but Newport and Maynard are none. The lords are, the dukes of Newcaſtle and Albemarle, the marquiſſes of Wincheſter and Worceſter, earls of Bridgewater and Saliſbury, viſcounts Fauconberg and Halifax, barons Roberts and Hollys. Commoners are, the lords Ruſſel and Cavendiſh, Mr. Powell, Mr. Seymour, and (as I hear) ſir William Temple. I hear alſo ſeven commiſſioners named for the admiralty, ſir Henry Capell, Merres, Littleton,

Engliſh Gentleman. It is ſo in Democracies, and was ſo in Sparta, and is done by your great Council in Venice; but we are not making ſuch a kind of government, *but rectifying an ancient monarchy*, and giving the Prince ſome help in the adminiſtration of that great branch of his regality. Beſides, it is ſufficient, that our Parliament chooſes theſe Councils, that is always underſtood the Lords and Commons, with the King's conſent. Beſides, it is poſſible, that if ſuch a regulation as this come in debate amongſt them, the Parliament will reſerve to itſelf the approbation of the great officers, as Chancellor, Judges, General Officers of an army and the like; and that ſuch ſhall not have a ſettlement in thoſe charges, till they are accordingly allowed of, but many in the mean time exerciſe them. As to particulars, I ſhall always refer you to what the Parliament will judge fit to order in the caſe; but if you have any thing to object, or to ſhew in general that ſome ſuch regulation as this cannot be effectual towards the putting our diſtracted Country into better order, I ſhall think myſelf obliged to anſwer you if you can have patience to hear me and are not weary already as you may very well be.

Noble Venetian. I ſhall certainly never be weary of ſuch diſcourſe; however I ſhall give you no further trouble in this matter, for I am fully ſatisfied, that ſuch Reformation, if it could be compaſſed, would not only unite all parties but make you flouriſhing at home and very great abroad. But have you any hopes that ſuch a thing will ever come into debate? What do the Parliament-men ſay to it?

Engliſh Gentleman. I never had any diſcourſe to this purpoſe either with any Lord or Member of the Commons Houſe, otherwiſe than as poſſibly ſome of theſe notions might fall in at ordinary converſation; for I do not intend to intrench upon the office of God, to teach our Senators wiſdom. I have known ſome men ſo full of their own notions that they went up and down, etc.————But yet to anſwer your queſtion and give you my conjecture. I believe we are not ripe yet for any great reform, not only becauſe we are a very debauch'd People; I do not only mean that we are given to whoring, drinking, gaming and idleneſs, but chiefly that we have a politique debauch, which is a neglect of all things that concern the publick welfare and a ſetting up our own private intereſt againſt it; I ſay, this is not all, for then the polity of no Country could be redreſt, for every Commonwealth that is out of order has ever all theſe debauches that we ſpeak of, as conſequences of their looſe ſtate. But there are two other conſiderations which induce me to fear that our cure is not yet near. The firſt is, becauſe moſt of the wiſe and grave men of the kingdom are very ſilent and will not open their budget upon any terms; and although they diſlike the preſent condition we are in as much as any men, *and ſee the precipice it leads to*, yet will never open their mouths to preſcribe a cure, but being aſked what they would adviſe give a ſhrug like your Countrymen, etc.————The next reaſon I have to make me fear that ſuch an expedient as we have been talking of will not be propoſed ſuddenly, is the great diſtruſt the Parliament has of men, which will make moſt Members ſhy of venturing at ſuch matters, which being very new, at the firſt motion are not perfectly underſtood, at leaſt to ſuch as have not been verſed in authors who have written of politicks; and therefore the mover may be ſuſpected of having been ſet on by the Court-party to puzzle them, and ſo to divert, by offering new expedients, ſome ſmart mettleſome debates they may be upon concerning the ſucceſſion to the Crown, or other high matters: for it is the nature of all popular councils (even the wiſeſt that ever were, witneſs the People of Rome

and

ton, Vaughan, Mr. Daniel Finch, and two others, that I have forgotten. The lord Shafteſbury is declared preſident of the council. Theſe were ſworn this morning; and that ceremony being performed, the king went to the houſe of lords, and ſent for the houſe of commons, to whom he did impart all that had paſſed; and all that I have yet ſpoken with ſeem much pleaſed; though it might have been wiſhed, that ſome of thoſe that are choſen had been left out. A friend * of yours and mine is, as far as I underſtand, the author of all this; and if he and two more can well agree amongſt themſelves, I believe they will have the management of almoſt all buſineſſes, and may bring much honour to themſelves, and good to our nation.

I find

and Athens, which Machiavel ſo much extols) in turbulent times, *to like diſcourſes that heighten their paſſions and blow up their indignation, better than thoſe that endeavour to rectify their judgments and tend to provide for their ſafety.* And the truth is, our Parliament is very much to be excuſed or rather juſtified in this diſtruſt they have of perſon, *ſince there hath been of late ſo many and ſo ſucceſsful attempts uſed by the late grea. Miniſters to debauch the moſt eminent Members of the Commons houſe by penſions and offices*; and therefore it would wonderfully conduce to the good of the Commonwealth and to the compoſing our diſordered State, if there were men of ſo high and unqueſtionable a reputation, that they were above all ſuſpicion and diſtruſt, and ſo might adventure upon bold, that is, in this caſe, moderate councils, for the ſaving of their country. *Such men there were in the Parliament of* 1640, *at leaſt twenty or thirty, who having ſtood their ground in ſeven Parliaments before, which in the two laſt Kings reign had been diſſolved abruptly and in wrath, and having reſiſted the fear of impriſonment and great fines* FOR THEIR LOVE TO ENGLAND, *as well as the temptation of money and offices to betray it, both offered by the wicked Counſellors of that age, tending both to the ruin of our juſt rights and the detriment of their maſters affairs; I ſay, having conſtantly and with great magnanimity and honour made proof of their integrity, they had acquired ſo great a reputation, that not only the Parliament but even almoſt the whole People ſtuck to them, and were ſwayed by them in actions of a much higher nature than any are now diſcourſed of, without fear of being deſerted, or as we ſay, left in the lurch, as the People of France often are by their Grandees, when they raiſe little civil wars to get great places, which as ſoon as they are offered, they lay down arms and leave their followers to be hanged.* But although theſe two reaſons of the ſilence of ſome wiſe men, and the want of reputation in others, does give us but a ſad proſpect of our land of promiſe, yet we have one conſideration which does encourage us to hope better things ere long. *And that is the infallible certainty that we cannot long continue as we are, and that we can never meliorate, but by ſome ſuch principles as we have been here all this while diſcourſing of,* and that without ſuch helps and ſuccours as may be drawn from thence, we muſt go from one diſtraction to another, till we come into a civil war, and in the cloſe of it be certainly a prey to the King of France, who (on which ſide it matters not) will be a gameſter and ſweep ſtakes at laſt; the world not being now equally ballanced between two Princes alike powerful, as it was during our laſt civil war; and if as well this danger, as the only means to prevent it, be underſtood in time (as no doubt it will) we ſhall be the happieſt and the greateſt Nation in the world in a little time; and in the mean time, may enjoy the beſt and moſt juſt eaſy government of any People upon earth. If you aſk me whether I could have offered any thing that I thought better than this, I anſwer you as Solon did a Philoſopher, who aſked him whether he could not have made a better government for Athens? Yes, but that his was the beſt, that the People would or could receive. And now I believe you will bear me witneſs, that I have not treated you as a wiſe man would have done in ſilence; but it is time to put an end to this tittle tattle which has nauſeated you for three days together.

Plato redivivus. Or Dialogues concerning Government. Edit. 3. [By H. Neville]

* The earl of Halifax, and the earls of Sunderland and Eſſex. See letter of May 12.

I find men's hearts much ſet upon taking the government of Ireland out of the earl of Ormond's hands. If a lieutenant be named, I believe it will be Eſſex or Halifax; and, if neither of them, three juſtices.

Others deſign Halifax ſucceſſor to his uncle Coventry. You will perhaps wonder, not to hear his brother William mentioned; but as yet there is no occaſion for it.

We have every day fooliſh alarms from the French fleet, and I find no body but the lord Sunderland and myſelf that believe not one word of it. Morgan, governor of Jerſey, is dead, and Laheer appointed to ſucceed him. That our affairs may be managed by as able a man abroad as that iſland is defended by, ſir H. Goodrike expects in a few days to be diſpatched for Spain. We do not yet ſee what effect the death of the king of Sweden will have as to the peace of Europe. I received the good piece of poetry, that I ſent you, from the lord Halifax. You ſhould have *Hodge's Speech* by this poſt, but it is very long; and I muſt write it in my own hand, which obligeth me to ſtay until the next week. The houſe of commons hath been all this day upon ſir John Hobert's petition concerning the election of knights of the ſhire for Norfolk, but I know not the ſucceſs. I am,

Your moſt humble and faithful ſervant.

Sir, London, April 28.

On this day was a ſe'nnight, I writ unto you what I had heard of the paſſages of the foregoing week; and though I make no doubt, you have many that give you far better accounts of what is done than I am able to do, I will not make that an excuſe for ſilence, leſt others ſhould allege the ſame, and covering true lazineſs with feigned modeſty, leave you in the dark, as my friends did me when I was abroad.

The five popiſh lords in the tower, had at the firſt given in cavilling uncertain anſwers; but Bellaſyſe and Peters on Thurſday, and Powis, Stafford and Arundel on Saturday, without any ambiguity, pleaded *not guilty*, and declared they put themſelves upon the lords juſtice.

The earl of Danby hath not thought fit, as yet, to deal ſo clearly, but hath put in a huge long anſwer, containing great proteſtations of his own innocence, as to every part of his charge; and then pleads his pardon, which enumerates and acquits him of all the crimes, that it is almoſt poſſible for a man to commit. This is by ſome thought very ſtrange; his innocence that he proteſts declaring that he had no need of pardon, and the pardon pleaded in effect acknowledging the truth of his charge; it being uſeleſs if he be not guilty. Hereupon other queſtions do ariſe, as whether the king can pardon? Whether if he have this power, he hath rightly executed it, the formalities not having been obſerved? And laſtly, whether he will inſiſt upon this anſwer, which will not leave him any plea at all, if the pardon be judged defective? I dare give no opinion upon theſe points, but I hear the learned ſay,

ſay, *the* king *cannot pardon a man impeached by parliament upon a public account:* that though he could, this would be of no value, being defective in all the formalities: and though perhaps the court may be prevalent enough in the houſe of lords, to have it admitted; that would be of evil conſequence, no man doubting but the houſe of commons will extremely diſlike ſuch a judgment, and grow very refractory thereupon; and the whole nation would follow them in it, ſo that all buſineſs would be thereby obſtructed; by which means the king, upon the perſonal account of the earl of Danby, would loſe the advantage of all that hath been done of late to pleaſe the nation; which I leave to your judgment, that know the court much better than I do. This point I only find to be clear, that if the pardon can be found good, though the formalities are wanting, it will be made good; and the burthen left upon the chancellor, that put the great ſeal unto it, without taking care of ſeeing them obſerved.

Some judges were yeſterday put out; Wild for inability of body, and Barton and Thurland of mind, with ſome others; to whom old Ellys, Raymond and Pemmerton, Leake and Atkins the younger are to ſucceed. The houſe of lords is buſy upon one bill concerning popery, and the houſe of commons upon another, both inclining to find a way of diſtinguiſhing proteſtants only from papiſts, but cannot yet reſolve upon it, ſo as to include the ſeveral diſſenting ſects; that papiſts may not be ſheltered, and receive the indulgence (which is not intended them) under other names; and this difficulty is chiefly occaſioned by the quakers, who, for more than one reaſon, are thought leaſt to deſerve much to be cared for. *Shafteſbury and Halifax are eminent in pleading* * *for indulgence*

[* *For indulgence to tender-conſcienced Proteſtants*]

Laws are either eccleſiaſtical or civil, ſuch as concern religion or government. Laws eccleſiaſtical or ſuch as concern religion, *according unto the univerſal courſe of ancient prudence*, are in the power of the magiſtrate; *according unto the common practice of modern prudence, ſince the papacy*, torn out of his hands.

But, as a government pretending unto liberty, and ſuppreſſing the liberty of conſcience, which (becauſe religion not according to a man's conſcience, can as to him be none at all) is the main, muſt be a contradiction; ſo a man that pleading for the liberty of private conſcience refuſeth liberty unto the national conſcience, muſt be abſurd. A commonwealth is nothing elſe but the national conſcience. And if the conviction of a man's private conſcience, produce his private religion; the conviction of the national conſcience, muſt produce a national religion. Whether this be well reaſoned, as alſo whether theſe two may ſtand together, will beſt be ſhewn by the examples of the ancient Commonwealths taken in their order.

In that of *Iſrael* the government of the national religion appertained not unto the prieſts and levites, *otherwiſe than as they happened to be of the Sanhedrim or Senate*, to which they had no right at all *but by election*. It is in this capacity therefore, that the people are commanded, under pain of death, *to hearken unto them, and do according to the ſentence of the law which they ſhould teach*; (Deut. 17.) but in *Iſrael*, the law eccleſiaſtical and civil was the ſame, therefore the *Sanhedrim* having the power of one, had the power of both. But as the national religion appertained unto the juriſdiction of the *Sanhedrim*, ſo the liberty of conſcience appertained, from the ſame date and by the ſame right, unto the prophets and their diſciples; as where it is ſaid, *I will raiſe up a prophet——and whoſoever will not hearken unto my words which he ſhall ſpeak in my name, I will require it*

it of him. Deut. 18. The words relate unto prophetic right, which was above all the orders of this commonwealth; whence *Elijah* not only refuſed to obey the king, but deſtroyed his meſſengers with fire: and whereas it was not lawful by the national religion to ſacrifice in any other place than the *Temple*, a prophet was his own temple, and might ſacrifice where he would, as *Elijah* did in *Mount Carmel.* By this right *John* the Baptiſt and our *Saviour*, unto whom it more particularly related, had their diſciples, and taught the people; whence is derived our preſent right of *gathered congregations:* wherefore the Chriſtian religion grew up according unto the orders of the commonwealth of *Iſrael*, and not againſt them. *Nor was liberty of conſcience infringed by this government, till the civil liberty of the ſame was loſt*, as under *Herod*, *Pilate*, and *Tiberius*, a three pil'd tyranny.

To proceed, *Athens* preſerved her religion, by the teſtimony of *Paul*, with great ſuperſtition. If *Alcibiades*, that atheiſtical fellow, had not ſhewed them a pair of heels, they had ſhaven off his head for ſhaving their *Mercuries*, and making their *Gods* look ridiculouſly upon them without beards. Nevertheleſs, if *Paul* reaſoned with them, they loved news, for which he was the more welcome; and if he converted *Dionyſius* the *Areopagite*, that is, one of the *Senators*, there followed neither any hurt to him, nor loſs of honour to *Dionyſius.* And for *Rome*, if *Cicero* in his moſt excellent book *De natura deorum*, overthrew the national religion of that Commonwealth, he was never the farther from being conſul. *But there is a* MEANNESS *and poorneſs* IN MODERN PRUDENCE, *not only unto the damage of civil government, but of religion itſelf:* for to make a man in matter of religion, which admitteth not of ſenſible demonſtration, jurare in verba magiſtri, engage to believe no otherwiſe than is believed by my Lord Biſhop, or Goodman Preſbyter, is a *Pedantiſm*, that hath made the ſword to be a rod in the hands of SCHOOLMASTERS: by which means, whereas the Chriſtian religion is the fartheſt of any from countenancing war, *there never was a war of religion but ſince Chriſtianity.* For which we are beholden to the *Pope*; for the *pope* not giving liberty of conſcience unto *Princes* and *Commonwealths*, they cannot give that unto their ſubjects which they have not: whence both princes and ſubjects, either through his inſtigation, or diſputes among themſelves, have introduced *that* EXECRABLE CUSTOM, *never known in the world before,* OF FIGHTING FOR RELIGION, *and denying the magiſtrate to have any juriſdiction of it; whereas the magiſtrate's loſing the power of religion, loſeth the liberty of conſcience, which in that caſe hath nothing to protect it.* But if the people be otherwiſe taught, it concerns THEM to look about, and diſtinguiſh between the ſhreeking of the lapwing, and the voice of the turtle.

The Commonwealth of Oceana. By *James Harrington.* *London*, printed 1656, in folio, p. 27, 28, 29.

Yet if all cannot be of one mind, *as who looks they ſhould be?* this doubtles is more wholeſome, more prudent, and more chriſtian, *that many be tolerated, rather than all compelled.* I mean not tolerated popery, and open ſuperſtition, which as it extirpats all religions and civill ſupremacies, ſo itſelf ſhould be extirpat, provided firſt, that all charitable and compaſſionate meanes be uſed to win and regain the weak and the miſled.

Areopagitica of *John Milton. London*, printed 1644 in quarto.

It is no great adventure to ſay, that the world was better ordered under the ancient Monarchies and Commonwealths, that the number of virtuous men was then greater, *and that the Chriſtians found fairer quarter under thoſe than among themſelves*; nor hath there any advantage accrued unto mankind from that moſt perfect and practical *model of human ſociety*, except the ſpeculation of a better way to future happineſs, concerning which the very guides diſagree, and of thoſe few that follow, no man is ſuffered to paſs without paying at their turnpikes. All which had proceeded from no other reaſon, but that men inſtead of ſquaring their governments by the rule of Chriſtianity, have ſhaped Chriſtianity by the meaſures of their governments, have reduced that ſtraight line by the crooked, and bungling divine and human things together, *have been always hacking and hewing one another, to frame an irregular figure of political incongruity.*

An account of the growth of Popery, and arbitrary power in England. By *Andrew Marvell.*

For all agree in teaching and commanding, in planting and improving, not only thoſe moral virtues, which conduce to the felicity and tranquillity of every private man's life; but alſo to the peace, order and ſafety of all civil ſocieties and governments amongſt men. *Nor could I ever underſtand how thoſe, who call themſelves, and the world uſually calls, religious men, came to put ſo great weight upon thoſe points of belief which men never have agreed in, and ſo little upon thoſe of virtue and morality, in which they have hardly ever diſagreed. Nor why a ſtate*

indulgence to tender-conſcienced proteſtants, and ſeverity againſt papiſts.*

The

ſhould venture the ſubverſion of their peace and order, which are certain goods and ſo univerſally eſteemed, for the propagation of uncertain or conteſted opinions.

Sir *W. Temple*'s works.

Now I appeal to the conſciences of thoſe that perſecute, torment, deſtroy, and kill other men upon pretence of religion, whether they do it out of friendſhip and kindneſs towards them or no: and I ſhall then indeed, and not till then, believe they do ſo, when I ſhall ſee thoſe fiery zealots correcting, in the ſame manner, their friends and familiar acquaintance, for the manifeſt ſins they commit againſt the precepts of the goſpel; when I ſhall ſee them proſecute with fire and ſword the members of their own communion that are tainted with enormous vices, and without amendment are in danger of eternal perdition; and when I ſhall ſee them thus expreſs their love and deſire of the ſalvation of their ſouls, by the infliction of torments, and exerciſe of all manner of cruelties. For if it be out of a principle of charity, as they pretend, and love to mens ſouls, that they deprive them of their eſtates, maim them with corporal puniſhments, ſtarve and torment them in noiſome priſons, and in the end even take away their lives; I ſay if all this be done merely to make men Chriſtians, and procure their ſalvation, why then do they ſuffer *whoredom, fraud, malice, and ſuch like enormities*; which (according to the apoſtle, Rom. 1,) manifeſtly reliſh of heatheniſh corruption, to abound amongſt their flocks and people? *Theſe, and ſuch like things, are certainly more contrary to the glory of God, to the purity of the Church, and to the ſalvation of ſouls, than any conſcientious diſſent from eccleſiaſtical deciſions, or ſeparation from public worſhip, whilſt accompanied with innocency of life*, etc. etc. etc.

A letter concerning toleration. Licenſed, Oct. 3, 1689. The ſecond edition corrected. [By *John Locke*.]

The great lord *Bacon*, in his excellent treatiſe on *the advancement of learning*; a work that cannot ſufficiently be praiſed, and to which Mr. *Boyle*, Mr. *Locke*, and the great Sir *Iſaac Newton*, owe the firſt rudiments of the ſeveral ſyſtems which they have ſince carried to ſo great perfection: in this wonderful treatiſe, wherein lord *Bacon* is ſhewing the deficiency of each ſpecies of learning, and is pointing out the errors which have prevented the progreſs and advancement of it; the ſcience of theology comes, among others, under his conſideration, upon which he has this remark, which for fear of being miſtaken in the quotation, I have written down, and ſhall beg leave to read to your lordſhips. "Here, therefore, I note this deficiency, that there hath not been, to my underſtanding, ſufficiently enquired and handled, the true limits and uſe of reaſon in ſpiritual things, as a kind of divine dialectic; which for that it is not done, it ſeemeth to me a thing uſual, by pretext of true conceiving that which is revealed, to ſearch and mine into that, which is not revealed."

You have now heard, my lords, the ſentiment of this great man, which is, that the ſearching and mining into things not revealed, under pretence of their being contained in that which is revealed, is the error which he notes in *the advancement of Theology*. Accordingly, if we enquire into the event and conſequence of the afore-mentioned determination in the council of *Nice*, we ſhall find, that the courſe of religion was thereby diverted into a wrong channel; and that Chriſtianity from thence forward, inſtead of being conſidered as a practical obligation, was changed into a ſpeculative ſcience; men's minds were irritated againſt one another, on account of niceties that were of no conſequence to religion; and the doctrine of faith, or of belief in *punctilios* of this kind, was ſo magnified and extolled, as being neceſſary to ſalvation, that the righteouſneſs of works was intirely neglected. Polemical divinity was introduced into religion, whereby the church was rendered, if I may be allowed the expreſſion, literally militant; and the divine precept of *univerſal love*, which our Saviour recommended to his diſciples, as his command, was changed into that *of hatred to all who would not ſubſcribe*.

The biſhop of Clogher's [Dr. Robert Clayton's] ſpeech, made in the houſe of lords in Ireland, Feb. 2, 1756; for omitting the Nicene and Athanaſian creeds out of the liturgy, etc. Taken in ſhort hand, at the time when it was ſpoken, by D. S. London printed 1757, in octavo.

[* *And ſeverity againſt Papiſts.*]

Entre les pieces originales, qu'on a jugé à propos de mettre à la fin de cet ouvrage, on en avoit oublié *deux conſiderables* que l'on ne ſera pas fâché de trouver ici en latin, parce qu'on n'a

The firſt of theſe ſaid the other day, " he neither could live *with* or *under* " a *papiſt.*" On Saturday it was reported to the houſe of commons, that the lord Cottington, who died many years ago in Spain, had appointed an epitaph to be written upon his tomb, expreſſing his deſire, that his body might reſt there until England were reſtored to the church, and then carried over; this it was the laſt year, and a warrant was produced from the earl of Danby to the commiſſioners of the cuſtoms to let it paſs.

Yeſterday

n'a pu les donner qu'en françois dans le cours de la narration. Ce ſont *deux decret du Concile de Conſtance*; L'un touchant les ſaufconduits donnez par les Princes ſeculiers à des gens ſuſpects d'héréſie, l'autre touchant le ſaufconduit de *Jean Hus* en particulier.

Quod non obſtantibus ſalvis conductibus Imperatorum, Regum, etc. poſſit per Judicem competentem de haeretica pravitate inquiri. Von der Hardt. t. IV. p. 521.

Praeſens ſancta Synodus ex quovis ſalvo conductu per Imperatorem, Reges, et alios ſeculi Principes haereticis, vel de haereſi diffamatis, putantes eoſdem ſic a ſuis erroribus revocare, quocunque vinculo ſe adſtrinxerint, conceſſo, nullum fidei catholicae vel juriſdictioni eccleſiaſticae praejudicium generari, vel impedimentum praeſtari poſſe ſeu debere, declarat, *quo minus ſalvo dicto conductu non obſtante, liceat judici competenti eccleſiaſtico de ejuſmodi perſonarum erroribus inquirere, et aliàs contra eos debite procedere, eaſdemque punire, quantum juſtitia ſuadebit, ſi ſuos pertinaciter recuſaverint revocare errores, etiamſi de ſalvo conductu conſiſi ad locum venerint judicii, aliàs non venturi* (in Lipſ. et Goth. additum; *nec ſic promittentem, cùm aliàs fecerit, quod in ipſo eſt, ex hoc in aliquo remanſiſſe obligatum.)*

Quo ſtatuto, ſive ordinatione lectis, idem ſtatutum fuit approbatum per dictos Dominos Epiſcopos nomine quatuor Nationum ac reverendiſſimum patrem Dominum Cardinalem Vivarienſem nomine Collegii Cardinalium, per verbum *Placet.*

De ſalvo conductu Huſſonis. Ibid. ex MS. Vindob. Dorr.

Sacroſancta etc. Quia nonnulli nimis intelligentis, aut ſiniſtrae intentionis, vel forſan ſolentes ſapere plus quàm opportet, nedum regiae majeſtati, ſed etiam ſacro, ut fertur, concilio linguis maledictis detrahunt, publice et occulte dicentes, vel innuentes, quod ſalvus conductus perinvictiſſimum principem Dominum *Sigiſmundum* Romanorum ut Ungariae etc. Regem, quondam *Johanni Hus*, haereſiarchae damnatae memoriae datus, fuit contra juſtitiam aut honeſtatem indebite violatus: *cum tamen dictus Johannes Hus fidem orthodoxam pertinaciter impugnans ſe ab omni conductu et privilegio reddiderit alienum, nec aliqua ſibi fides aut promiſſio de jure naturali, divino, vel humano fuerit in praejudicium catholicae fidei obſervanda:* Idcirco dicta ſancta *Synodus* praeſentium tenore declarat, *dictum invictiſſimum Principem circa praedictum quondam Johannem Hus, non obſtante memorato ſalvo conductu, ex juris debito feciſſe quod licuit, et quod decuit regiam majeſtatem*; ſtatuens et ordinans omnibus et ſingulis Chriſti fidelibus, cujuſcunque dignitatis, gradus, preeminentiae, conditionis, ſtatus, aut ſexus exiſtant, quod nullus deinceps ſacro concilio aut regiae majeſtati de geſtis circa praedictum quondam *Johannem Hus* detrahat, ſive quomodolibet obloquatur. *Qui vero contrarium fecerit, tanquam fautor haereticae pravitatis et reus criminis laeſae majeſtatis irremiſſibiliter puniatur.*

Hiſtoire du Concile de Conſtance, tirée principalement d'auteurs qui ont aſſiſté au Concile. Par Jaques L'Enfant. Tome I. p. 47, 48.

Argumentum.

Graviſſimis explicatis detrimentis, quae per Pactiones Altranſtadenſes inter Plenipotentiarios, ſeu Commiſſarios cla. mem. Imperatoris Joſephi, et Plenipotentiarios, ſeu Commiſſarios Regis Svecorum anno 1707 initas catholicae fidei, et eccleſiaſticae juriſdictioni illata fuerunt: *eaſdem Pactiones damnat, improbat, ac irritas, nulliuſque roboris eſſe declarat. Deinde Imperatorem Carolum, ut illas effectu prorſus carere ſtudeat, enixe hortatur.*

Chariſſimo in Chriſto Filio noſtro, Carolo Hiſpaniarum Catholico, nec non Hungariae et Bohemia Regi illuſtri, in Romanorum Imperatorem electo, Clemens P. P. XI.

Chariſſime in Chriſto Fili noſter, ſalutem et apoſtolicam Benedictionem. Plurima, et ſane fervida ſtudia, quae ab eterodoxis principibus indeſinenter adhiberi novimus in tractationibus Ultrajecti inſtitutis, ut quidquid prope finem quarti articuli pacificationis Riſvvicenſis

Yeſterday was appointed extraordinary by the houſe of commons, to conſider of the ſucceſſion of the crown in relation to popery, upon the debate of which ſecretary Coventry, amongſt other things, is ſaid to have reproached Birch, that his diſcourſes ſavoured of the years 1640 and 41, but that himſelf continued in the ſame mind he had ever been; and having taken the oaths of allegiance and ſupremacy to the king and his ſucceſſors, could not without perjury fail of performing

favore catholicorum, et orthodoxae fidei adjectum fuit, penitus abrogetur: e contra vero Weſtphalicae pacis capita ad religionis negotium pertinentia, nedum olim ab hac ſancta ſede reprobata, ſed et per ipſum articulum quartum Riſvvicenſem correcta inſtaurentur, et executioni demandentur, qua de re non ita pridem Majeſtati tuae fuſe perſcripſimus, nobis in memoriam revocant infelices illas, et nunquam ſatis deplorandas pactiones, quas dudum eodem plane conſilio inferendi abominationem in loco ſancto Sveci Plenipotentiarii, ſeu Commiſſarii non minus violenter quam injuſte expreſſerunt a Plenipotentiariis, ſeu Commiſſariis cla. mem. Joſephi, dum viveret, in Romanorum Imperatorem electi germani fratris tui, quaeque anno 1707, in caſtris Altranſtadenſibus inter eoſdem utriuſque partis Commiſſarios initae fuerunt. Summus profecto dolor, quo tunc affecti fuimus, cum animo reputaremus, praeter alia graviſſima catholicae religioni, ac juriſdictioni eccleſiaſticae per eas pactiones illata detrimenta, inſignem adeò eccleſiarum numerum tum in tribus Ducatibus Lignienſi, Bregenſi, ac Munſterbergenſi, tum in ipſa Uratiſlavienſi civitate, ac in reliquis etiam Sileſiae principatibus vero Dei cultui eripi et auferri, ac execrandae ſectae impietati tradi, et aſſignari, nunc maxime non tantum renovatur, ſed majorem etiam in modum intenditur ac augetur, dum cogitatione complectimur, atque proſpicimus quantam inde ſpem ſumpturi ſint acatholici reliquas etiam nefarias eorum machinationes, atque conſilia perficiendi. Porrò tametſi compertum habeamus Majeſtatem tuam minime latere quàm alieno a memoratis pactionibus animo idem frater tuus fuerit: quantopere doluerit, quod ob res ſuas tunc in arcto poſitas ejuſmodi duras, ac plane impias conditiones accipere coactus fuerit: et quo tandem aeſtuaverit deſiderio congruis remediis, quae perperam acta fuerant, farciendi ac reparandi: *quae omnia ipſe literis ſua manu exaratis diſerte nobis ſignificavit, et luculentius etiam ac uberius dilecto filio noſtro Annibali ſanctae Romanae eccleſiae Cardinali Albano noſtro ſecundum carnem ex fratre nepoti per idem tempus apud eum agenti non ſemel explicavit:* et quamvis itidem ambigere nequaquam poſſimus, quin Majeſtas tua pro eximia pietate ac ſtudio, quo incenſa eſt, cauſae Dei, veraeque religionis, probe intelligat, et agnoſcat ejuſmodi pactiones prorſus inanes, et ſuapte natura irritas, ac nullius roboris, vel momenti extitiſſe, et exiſtere, quemadmodum eas germanus frater tuus a nobis admonitus palam agnovit, et profeſſus fuit: et propterea optime etiam perſpiciat nullam prorſus earum habendam eſſe rationem, nec illas a quoquam allegari, aut obſervari ullo modo poſſe, nec debere; nihilominus tum ut quae ſemper fuerit, et adhuc ſit noſtra ea de re ſententia, Majeſtati tuae clarius et apertius innoteſcat, tum etiam ut apoſtolico noſtro judicio innixa ſolidius et alacrius praedictas conventiones prorſus contemnere, ac ita illas habere poſſit, tamquam ſi numquam factae fuiſſent: *Majeſtati tuae per praeſentes denunciamus, ac inſimul tradita nobis ab Omnipotenti Deo authoritate declaramus, praenarratas dicti tractatus Altranſtadenſis pactiones, ceteraque in eo contenta, quae catholicae fidei, divino cultui, animarum ſaluti, eccleſiaeque authoritati, juriſdictioni, libertati, ac juribus quibuſcumque quomodolibet efficiunt, ſive praejudicium etiam minimum afferunt, aut inferre, ſeu intuliſſe, vel alias nocere, ſeu nocuiſſe quoquomodo dici, cenſeri, praetendi, vel intelligi poſſint, cum omnibus et ſingulis inde ſecutis, et quandocumque ſecuturis, ipſo jure nulla, irrita, invalida, injuſta, reprobata, inania, viribuſque, et effectu penitus, ac omnino vacua ab ipſo initio fuiſſe, et eſſe, ac perpetuo fore, neminemque ad illorum, ſeu cujuſlibet eorum, etiamſi pluries ratificata, ac juramento vallata ſint, obſervantiam teneri, imò nec illa ullatenus a quoquam obſervari potuiſſe, ac debuiſſe, aut poſſe, et debere, neque ex illis cuiquam aliquod jus, vel actionem, aut titulum, etiam coloratum, vel poſſidendi, ac praeſcribendi cauſam, acquiſitum; vel acquiſitam fuiſſe, nec eſſe, minuſque ullo tempore acquiri, et competere poſſe, neque illa illum ſtatum facere, vel feciſſe, ſed perinde ac ſi numquam emanaſſent, nec facta fuiſſent, pro non extantibus, et non factis perpetuò haberi debere. Et nihilominus ad uberiorem cautelam, et quatenus opus ſit, pactiones praedictas, aliaque praemiſſa, ut praefertur, praejudicialia*

harum

forming the contents of them to his ſucceſſor, what religion ſoever he ſhould happen to be of. Unto which Birch replied, aſſerting his own ſervices to the king; taxing Coventry of having broken his word to the parliament twice the laſt year, in relation to a war promiſed to be declared and actually made upon France; diſſerved the king and nation, in having been a principal cauſe of breaking the triple league; and concluded, he was as fit to be turned out of the council as any one

harum ſerie improbamus, reſcindimus, caſſamus, irritamus, et annullamus, viribuſque et effectu penitus, ac omnino vacuamus. Age igitur, Chariſſime in Chriſto Fili noſter, ac pactionibus hujuſmodi penitus rejectis, iiſque omnibus, quae in earum executionem quovis modo geſta fuerunt, reſciſſis, eccleſiae, religionis, ac Dei cauſam fortiter tuere, et ab ejus patrocinio ſuſcepti tui regiminis felicia auſpicare primordia. Oſtende ſatis tibi perſuaſum eſſe praecipuas tuas partes pro ea, quam obtines, imperii Majeſtate non aliàs eſſe debere, quam in propugnandis fidei et eccleſiae juribus, quae religioſiſſimi, inclytique Imperatores majores tui aſſerere ſemper, atque amplificare pro viribus ſtuduerunt. Ita plane perennem tuo nomini laudem et gloriam, coeleſteſque tibi, ac tuae auguſtae domui benedictiones magis, magiſque conciliabis; quarum in auſpicium cum perpetuo felicitatis tuae voto conjunctam apoſtolicam benedictionem Majeſtati tuae amantiſſime impertimur. Datum Romae apud ſanctum Petrum ſub annulo priſcatoris die 4 Junii 1712, Pontificatus noſtri anno duodecimo.

Clementis XI. Pont. max. epiſtolae et brevia ſelectiora. (Tom. 11, pag. 173.) *Romae* 1724, *ex typographia reverendae camerae apoſtolicae. Superiorum permiſſu, et privilegio.*

The reader may ſee this important ſubject amply diſcuſſed in the following tract, which was firſt printed 1682 in quarto, and again 1723 in octavo, and was written by Dr. Daniel Whitby. "A *Diſcourſe concerning the laws*, eccleſiaſtical and civil, made againſt heretics, by Popes, Emperors, and Kings, provincial and general Councils, approved by the Church of Rome: ſhewing, I. What Proteſtant ſubjects may expect to ſuffer under a popiſh prince acting according to thoſe laws. II. That no oath or promiſe of ſuch a prince can give them any juſt ſecurity that he will not execute theſe laws upon them. With a preface againſt perſecuting and deſtroying Heretics."—There are other valuable tracts againſt the Romiſh religion, written by this learned, able, active, faithful, proteſtant Divine.

Puiſ-que nous ſommes ſur l'article de la peinture, il faut que je vous diſe quelque choſe du *Maſſacre de l'Amiral Coligni*, d'ont l'hiſtoire ſe voit en trois grands tableau, dans la ſale [YET THERE] où le *Pape* donne audience aux *Ambaſſadeurs*. Dans le premier tableau, l'aſſaſſin *Morevel* ayant bleſſé *Coligni* d'un coup d'arquebuſe, on le porte dans ſa maiſon; et au bas du tableau eſt ecrit "*Gaſpar Colignius Amirallius accepto vulnere domum refertur. Greg.* XIII. *Pont. max.* 1572." Dans le ſecond, l'Amiral eſt maſſacré dans ſa même maiſon, avec *Teligni* ſon gendre, et quelques autres. Ces paroles ſont ſur le tableau. "*Caedes Colignii et ſociorum ejus.*" Dans le troiſiéme, la nouvelle de cette execution eſt rapportée au Roi, lequel témoigne en être ſatisfait. "*Rex Colignii necem probat.*"

Le Pape ne contenta pas de faire peindre l'hiſtoire de ce *Maſſacre*, comme un trophée dans ſon Palais. Pour mieux éterniſer un fait ſi memorable, il fit encore frapper des médailles, où l'on voit ſon image "*Gregorius* XIII. *Pont. max. an.* 1." Et ſur le revers un Ange *exterminateur*, qui d'une main tient une croix, et de l'autre une épée dont il perce a bras racourci, avec ces paroles "*Ugonottorum ſtrages* 1572." Ces medailles ſont devenues fort rares, [THE DYES HAVE BEEN LATELY RENEWED] cependant mes amis m'en ont fait avoir quelques unes.

Le Cardinal de Lorraine, qui étoit a Rome, fit préſent de mille écus à celui qui apporta la bonne nouvelle du *Maſſacre*. Il y eut feux de joye, jubilé, actions de graces, proceſſions ſolenelles, etc. etc. etc.

Nouveau voyage d'Italie. Par *Maximilien Miſſon*. Quatrieme edition.

On peut dire que le Collége Romain, qui eſt le grand College et la principale maiſon des *Jeſuites* de Rome, eſt un des plus beaux palais de la ville. La Bibliothéque eſt bonne et nombreuſe, mais elle n'a ni manuſcrits anciens, ni autre choſe fort rare. Dans une grande ſale, ou ſont, les portraits des *Jeſuites* Martyrs, nous avons remarqué celui du fameux

one that had been ſo. Bennet not long before had ſaid, that though this council ſeemed in ſome degree to be reformed, no good could reaſonably be expected, as long as one continued in it, who did by ſuch violences and other undue ways advance arbitrary power in Scotland, and one that had maſſes daily ſaid for him in Ireland: for the firſt of theſe he named Latherdale, and left the houſe in an opinion, that for the other he meant Angleſey. At the laſt it was concluded, that

fameux *Garnet, ce hardi ſerviteur de la Societé, qui fut pendu et écartelé pour la trahiſon des Poudres. Un Ange l'encourage, et lui montre le ciel ouvert.* The ſame author, honeſt *Miſſon.*

The College of *Jeſuits* at *Fribourg* is, they ſay, the fineſt in *Switzerland.* There is a great deal of room in it, and ſeveral beautiful views from the different parts of it. They have a collection of pictures, repreſenting moſt of the fathers of their order, who have been eminent for their piety and learning. Among the reſt many *Engliſhmen,* [STILL THERE] whom we name rebels, and they martyres. *Addiſon's* Travels.

View the SANGUINARY medals in the "*Numiſmata elegantiora of Luckius;*" in the "*Medailles de Louis le grand;*" in the "*Hiſtoire metallique des* XVII. *Provinces des Pays bas of Van Loon;*" in the "*Numiſmata Romanorum Pontificum praeſtantiora of Venuti;*" in the "*Numiſmata of the earl of Pembroke;*" and in the cabinets of the curious.

And yet alſo by ſome other meanes, to furder theſe intentions, becauſe they could not readily prevayle by force, finding forreine princes of better conſideration and not readily inclined to their wicked purpoſes, it was deviſed to erect up certaine ſchooles, which they called *Seminaries,* to nouriſh and bring up *perſons diſpoſed naturally to ſedition,* to continue their race and trade, and to become ſeedmen in their tillage of ſedition, and them to ſende ſecretly into theſe the Queene's Majeſties realmes of *England* and *Ireland* under ſecret maſkes, ſome of prieſthood, ſome of other inferior orders, with titles of *Seminariſts* for ſome of the meaner ſort, and of *Jeſuites* for the ſtagers and *ranker ſort* and ſuch like; but yet ſo warely they crept into the land, as none brought the marks of their prieſthoode with them, but in divers corners of her Majeſties dominions theſe *Seminariſts* or ſeedmen and *Jeſuites,* bringing with them certeine *romiſh traſh,* as of their hallowed ware, their *agnus dei,* and ſuch like, have as tillage men laboured ſecretly to perſwade the people to allowe of the *Pope's* foreſaide *bulles* and *warrantes,* and of his abſolute authoritie over all Princes and Countries, and ſtriking many with prickes of conſcience to obey the ſame, whereby in proceſs of ſmall time, if this wicked and dangerous, traiterous and craftie courſe had not bene by God's goodnes ſpied and ſtaied, there had followed imminent danger of horrible uprores in the realmes, and a manifeſt bloody deſtruction of great multitudes of chriſtians. For it cannot be denied, but that ſo many as ſhould have bene induced, and throughly perſwaded to have obeyed the wicked warrant of the *Popes,* and the contents thereof, ſhould haue been forthwith in their hearts and conſciences ſecret traitors, *and for to be indeede errant and open traitors, there ſhould have wanted nothing but opportunitie to feel their ſtrength and to aſſemble themſelves in ſuch nombers with armour and weapons, as they might have preſumed to have bene the greater part, and ſo by open civill warre to have come to their wicked purpoſes.* But God's goodneſſe by whome Kinges doe rule, and by whoſe blaſt traitors are commonly waſted and confounded, hath otherwiſe given to her Majeſtie as to his handmayde and deare ſervant, ruling under him, the ſpirit of wiſdome and power, whereby ſhe hath cauſed ſome of theſe ſedicious ſeedemen and ſowers of rebellion, to be diſcovered for all their ſecret lurkings, and to be taken and charged with theſe former poyntes of high treaſon, NOT BEING DELT WITHALL UPON QUESTIONS OF RELIGION, BUT IUSTLY BY ORDER OF LAWS, OPENLY CONDEMNED AS TRAITORS, etc. etc. etc.

The execution of juſtice in *England,* for maintenance of publique and chriſtian peace, againſt certeine ſtirrers of ſedition, and adherents to the traytors and enemies of the realme, *without any perſecution of them for queſtions of religion,* as is falſely reported and publiſhed by the fautors and foſterers of their treaſons. Secondly imprinted, at London, menſe Jan. 1583, with ſome ſmall alterations of thinges miſtaken or omitted in the tranſcript of the firſt originall.—A maſter tract, by the lord treaſurer *Burleigh.* The running title of it is, "*Execution for treaſon and not for religion.*"

that the king ſhould be deſired to give order for the execution of Pickering and another condemned prieſt; that a proclamation ſhould be iſſued to baniſh all papiſts without any other exceptions than public miniſters, and their followers, twenty miles out of London: the lady Portſmouth was named, but not purſued: that the duke of York being a papiſt, the hopes of his ſucceeding unto the crown had been the principal ground and foundation of the plot againſt the king's life

——And in the booke of *thankſgiving* appointed for *the fifth of November*, ſet forth by King *James* and the *Parliaments* ſpeciall direction, this obſervable prayer, (ſomewhat altered by the now *Arch-prelate* of *Canterbury* [In the margin is added, "who confeſſeth and juſtifieth it in his ſpeech in the Star-chamber, June 14, 1637"] in the latter editions to pleaſure his friends the Papiſts) *whoſe religion is rebellion, whoſe faith is faction, whoſe practice is murthering of ſouls and bodies, and to roote them out of the confines of this Kingdome*, etc. etc. etc.

The treachery and diſloyalty of Papiſts to their Soveraignes, in doctrine and practice, etc. The ſecond edition enlarged. By William Prynne, Utterbarreſter of Lincolnes Inne. London, 1643, in quarto, p. 2. In the Title appears alſo "It is this ſecond of May, 1643, ordered by the Committee of the houſe of Commons in Parliament for printing, that this book intituled, *The Treachery and diſloyalty of Papiſts to their Soveraignes*, etc. with the additions, be re-printed by *Michael Sparke*, ſenior. *John White.*"

Legato Hiſpanico.

Parlamentum Reipublicae Angliae cum intelligat, plurimos ex populo in hâc urbe tam *Excellentiae* veſtrae, quàm aliorum *Legatorum* et *Miniſtrorum* ab exteris regionibus publicorum hic verſantium domos *Miſſae* audiendae cauſâ frequentare, *Concilio Status* mandavit, uti *Excellentiae* veſtrae ſignificaret, *cùm hoc gentis hujus legibus damnatum, ac in hâc noſtrâ Republica mali admodum exempli ſit, offenſioniſque plenum, cenſere ſe, ſui planè officii eſſe, ne quid tale dehinc fiat providere; coetuſque ejuſmodi in futurum prorsùs interdecere.* Quâ de re *Excellentiam* veſtram admonitam nunc eſſe cupimus, *ut ne quem ex populo hujus Reipublicae Miſſae audiendae cauſâ ſuam in domum poſthàc velit admittere.* Et quemadmodum *Parlamentum* diligenter curabit, ut Legati jus et privilegia quaeque veſtrae *Excellentiae* inviolata ſerventur; ita hoc ſibi perſuaſiſſimum habet, *Excellentiam* veſtram, quamdiu hic commoratur, leges hujus *Reipublicae* per ſe ſuoſve nolle ullo modo violatas.

Literae Senatûs Anglicani, nomine ac juſſu conſcriptae a Joanne Miltono.

Who doubts leſs of the dangerouſneſs of your principles and practices, than they that have read moſt, and had moſt experience of them? We can give you no greater inſtance than in King *James*, who was no ſtranger to You *either way*, and this is his judgment of you. "That as on the one part, many honeſt men, ſeduced by ſome of the errors of Popery, *may yet remain good and faithful ſubjects*; ſo on the other part, none of thoſe, that truly know and believe the whole grounds and ſchool concluſions of their doctrines, *can ever prove either good Chriſtians or good ſubjects.*"

The late Apology in behalf of the Papiſts, [ſuppoſed to have been written by Roger Palmer, Earl of Caſtlemayne, aſſiſted by Robert Pugh, a ſecular prieſt] reprinted, and anſwered. London 1667 in quarto—by William Lloyd, D. D. afterwards Biſhop of St. Aſaph, and of Lichfield.

Another more ſecret evil, but more dangerous to the Commonwealth, is, *when men arrogate to themſelves, and to thoſe of their own ſect, ſome peculiar prerogative, covered over with a ſpecious ſhew of deceitful words, but in effect oppoſite to the civil right of the Community.* For example. We cannot find any ſect that teaches expreſly, and openly, that men are not obliged to keep their promiſe; that Princes may be dethroned by thoſe that differ from them in religion; or that the Dominion of all things belongs only to themſelves. For theſe things propoſed thus nakedly and plainly, would ſoon draw on them the eye and hand of the Magiſtrate, and awaken all the care of the Commonwealth to a watchfulneſs againſt the ſpreading of ſo dangerous an evil. But nevertheleſs, we find thoſe that ſay the ſame things in other words. What elſe do they mean, who teach, *that Faith is not to be kept with*

life and the proteſtant religion: that the ſecret committee ſhould, on Wedneſday next, bring into the houſe ſuch letters and papers as they had in their hands relating unto the ſaid duke. The concurrence of the lords is deſired, as to the proclamation, and the firſt vote concerning the duke; and the lord Ruſſell, notwithſtanding his being a privy counſellor, appointed to carry up the meſſage. They alſo voted an addreſs to be made to the king, that all ſea-ports, places of ſtrength, and

with Heretics? Their meaning, forſooth, is that the privilege of breaking faith belongs unto themſelves: for they declare all that are not of their communion to be Heretics, or at leaſt may declare them ſo whenſoever they think fit. What can be the meaning of their aſſerting, *that Kings excommunicated forfeit their Crowns and Kingdoms?* It is evident that they thereby arrogate unto themſelves the power of depoſing Kings: becauſe they challenge the power of excommunication, as the peculiar right of their Hierarchy. *That Dominion is founded in grace*, is alſo an aſſertion by which thoſe that maintain it do plainly lay claim to the poſſeſſion of all things: for they are not ſo wanting to themſelves as not to believe, or at leaſt as not to profeſs, themſelves to be the only pious and faithful. *Theſe therefore, and the like, who attribute unto the faithful, religious and orthodox, that is, in plain terms, unto themſelves; any peculiar priviledge or power above other mortals in civil concernments; or who, upon pretence of Religion, do challenge any manner of authority over ſuch as are not aſſociated with them in their Eccleſiaſtical communion, I ſay theſe have no right to be tolerated by the Magiſtrate; as neither thoſe that will not own and teach the duty of tolerating all men in matters of* MERE *religion: for what do all theſe and the like doctrines ſignifie, but that thoſe men may, and are ready upon any occaſion to ſeize the government, and poſſeſs themſelves of the eſtates and fortunes of their fellow-ſubjects; and that they only aſk leave to be tolerated by the magiſtrate ſo long, until they find themſelves ſtrong enough to effect it.*

A letter concerning toleration. Edit. 2.—The firſt edition of this incomparable letter was printed in latin. The title of it is, "Epiſtola de Tolerantia; ad clariſſimum virum T. A. R. P. T. O. L. A. [theologiae apud remonſtrantes profeſſorem, tyrannidis oſorem, Limburgium, Amſtelodamenſem] ſcripta à P. A. P. O. I. L. A. [pacis amico, perſecutionis oſore, Joanne Lockio, Anglo,] Goudae, 1689.

My averſion to *Popery* is grounded, not only on its *paganiſm* and *idolatry*, but on its being calculated for the ſupport of deſpotic power, and inconſiſtent with the genius of a free government. *This I take to be its* REAL *character; which I do not however extend to the particular profeſſors of it; many of whom I know to be men of great probity, politeneſs, and humanity; who through the prejudice of education, do not either ſee the conſequences of what they are trained to profeſs; or through a miſtaken point of honor, think it a duty to adhere to the religion of their anceſtors. With theſe I can live, not only in charity, but in friendſhip; without the leaſt inclination to offend them, any farther, than by obſtructing all endeavours to introduce a religion among ſt us, which would neceſſarily be ruinous to the liberty of our Country.* Thus much I thought myſelf obliged to ſay upon the occaſion of the foregoing letter; *that while the Papiſts look upon me as an Enemy, they may conſider me at leaſt as* A FAIR ONE; *an enemy to the idolatrous and ſlaviſh principles of their church; but free from all prejudice or enmity to their perſons.*

A letter from Rome, ſhewing the exact conformity between Popery and Paganiſm: or the religion of the preſent Romans, derived from that of their heathen Anceſtors. The fourth edition. To which are added, I. A prefaratory diſcourſe, containing an anſwer to all the objections of the writer of a popiſh book, intituled, "*The catholic chriſtian inſtructed*," etc. with many new facts and teſtimonies, in farther confirmation of the general argument of the letter. And II. A poſtſcript, in which Mr. Warburton's opinion concerning the Paganiſm of Rome is particularly conſidered. By Conyers Middleton D. D. principal librarian of the Univerſity of Cambridge—in the prefaratory diſcourſe.

The hiſtories of *Chriſtendom* for theſe laſt two hundred years, are FULL of the hardſhips and ſufferings of *Proteſtants*, from the hands of *Papiſts*, when they have had them in their power. In Queen *Mary*'s ſhort reign of five years, ſome hundred of fires were lighted up

and command of ſhips may be put into truſty hands, and concluded to refer the farther conſideration of this buſineſs to Wedneſday next, and I believe it will be then debated, whether ſuch an aſſociation ſhall be entered into as was appointed in queen Elizabeth's time; or an act made,

in *Smithfield* and other parts of this Kingdom, to deſtroy thoſe that would not ſwallow down *tranſubſtantiation*, and other errors of *Popery*.—In the *Maſſacre* which begun at *Paris* on St. *Bartholomew*'s day, and thence ſpread all over *France*, *Thuanus*, an author of undoubted veracity, aſſures us, there were murdered little leſs than *thirty thouſand* perſons, ſome of them the moſt conſiderable of all the reformed in that Kingdom. In the *Iriſh Maſſacre*, there were a great many more. By a book printed at *Liſbon* ſoon after, done by a prieſt, who called himſelf *Conſtantius Marullus*, above *a hundred thouſand* proteſtants are ſaid to have been killed; [Milton, in his Eikonoklaſtes, ſays "the number was 154000 in the province of *Ulſter* only, by their own computation, which added to the other three, makes up the total ſum of that ſlaughter, in all likelyhood, *four times as great*"] and ſome of them with moſt exquiſite and before unheard of torments. And the ſame author, to ſhew his catholic charity, adds, UTINAM OMNES!—To come nearer to our own times. In the reign of *Lewis* XIV, upon the revocation of the edict of *Nantes*, how many thouſand *proteſtant* families, after *dragooning*, *impriſonment*, *and every other hardſhip*, were driven out of their own country, and took refuge among us? [On the reverſe of a medal ſtruck by him on that occaſion, where he is repreſented trampling upon *Hereſy* and crowned by *Religion*, is this inſcription, "*Ob vicies centena millia Calvinianorum ad eccleſiam* REVOCATA"—] Then the Executions at *Thorn*, and the perſecutions in the Archbiſhoprick of *Saltzburg*, whereby between *twenty* and *thirty thouſand* innocent people, were forced at a ſhort day to leave their native country, and all their effects behind them, only for their ſteady adherence to the reformed Religion, are recent almoſt in every one's memory.—Nay, the very laſt year furniſhes us with a freſh inſtance of the ſame perſecuting ſpirit of *Popery*, by two edicts publiſhed in *France*, one bearing date Feb. 1, the other Feb. 16; whereby the *Proteſtants* in and about *Montauban*, who either had, or ſhould aſſiſt at the aſſemblies for divine worſhip after the reformed way, *were inſtantly, without ſo much as the form or appearance of a trial, to be ſent to the French King's gallies for life, there to ſerve as ſlaves; and the Women and Girls to be ſhut up for ever in places which ſhould be appointed for them*; and more than this, if any aſſembly was held in any one community of a diviſion, the whole diviſion was to be reſponſible for it, ſubject to *a fine arbitrary*, to be levied by *a military force*; which *edicts* were procured by the *Popiſh* clergy, at the price of their advancing *twenty four* millions of *livres* for a free gift to their *Sovereign* inſtead of *ſixteen*; and have been moſt *rigorouſly* executed.

Curſing no argument of ſincerity: or, an anſwer to a tract, entituled, "A Vindication of the Roman catholics." By William Primatt, M. A. Rector of a MEDIETY of Weſt Walton in Norfolk. Norwich, printed 1746, in quarto.

In the beginning of the Rebellion 1745, the number of *Papiſts* in *London* and *Weſtminſter* was computed *one hundred thouſand*.—In ſuch open defiance of our laws has *popery* been long making great progreſs. And whether the threatning conſequences are not formidable, may well deſerve the conſideration of ſuch, who are able to diſcern the ineſtimable value of our civil and religious liberties.—It would be far from us, after all, to deſire any pains or penalties ſhould be inflicted on men, becauſe they have an extravagant ritual, and are fond of worſhipping a troop of deities or demons; or for ſaying prayers by tale or number, either to real or imaginary ſaints; for venerating a wafer or a crucifix: ſince he who can feaſt his ſoul, either on gold, ſilver, or precious ſtones, or who can beſt reliſh wood, hay, or ſtubble, ſhould only have our pity, and we ought to wiſh a leſs depraved appetite. *But ſo long as the Papiſt holds opinions ſubverſive of morality, deſtructive of ſociety, dangerous to the civil and religious rites of mankind; that is, ſo long as the hand of popery is againſt every man; ſo long every man's hand ſhould be againſt popery.*

Three queſtions reſolved. London, 1757, in octavo.

It is much to be lamented, that the laws relating to Papiſts were not reduced into one act of Parliament, and altered, amended, ſtrengthened as ſhould be found neceſſary; *not to their deſtruction, but our* SAFETY.

made, that this parliament ſhould not determine in ſuch a time as ſhould be limited, though the king ſhould die, or in ſo many months after, or ſomething to that purpoſe, which may tend to the king's ſecurity. I do not well know what the houſes have done this morning, but hear the meſſage from the houſe of commons is carried up to the lords, and that they have appointed the earl of Danby to be at their bar to-morrow morning. The commons have alſo perfected their bill for diſbanding of the army, by a land-tax of twenty thouſand pounds the month, ſubſequent to that which will expire in February next. Several prieſts were taken the laſt night, of which two confeſs they were ſent over by all means to endeavour to invalidate Oates and Bedloe's teſtimony. Reading was this morning in the pillory, and is condemned to a year's impriſonment and 1000 pounds fine, for having endeavoured to corrupt Bedloe. Stubbs, the counteſs of Shrewſbury's butler, *confeſſeth he had been induced by three prieſts, to gain as many ſervants as he could, to ſet fire to their maſters houſes; of which a wench was apprehended for firing her maſter's in Fetter-lane.* I am,

Your moſt humble ſervant.

Sir, London, May $\frac{5}{15}$.

Though the laſt week was ſpent rather in wrangling than the diſpatch of any buſineſs of importance, I continue to give you an account of what I hear, becauſe theſe irregular motions are often the forerunners of great matters; and as they denote the temper of a nation, they give good grounds of gueſſing what they will end in. I do not ſend you the king and chancellor's ſpeeches, becauſe I preſume care was taken to ſend them to you by the laſt poſt; but perhaps others have not been ſo free in telling you the effect of it as I ſhall be. The courtiers did believe, that the king's yielding that the parliament ſhould not end with his life, or be revived by his death, if it chanced to be diſſolved in his life-time, and have the nomination of all officers, both civil and military, if his ſucceſſor proved to be a papiſt, would have given entire ſatisfaction unto the houſe of commons. But to the contrary it is certain, that the ſuppoſition that the next in blood muſt be king, though a papiſt, is ſo diſtaſteful to them, that nothing will pleaſe upon that odious condition; and as to this particular, it is looked upon as a trick to bring the parliament to confeſs and confirm the duke's title, that is, a little gilding to cover a poiſonous pill. This puts them upon various counſels: ſome would impeach him, upon what is diſcovered of his part in the plot: others incline more to bring in an act, to exclude him from the ſucceſſion of the crown, as being a papiſt, and thereby a friend unto, and dependent upon, a foreign and enemy power. Some of thoſe that are of this mind look "who is "fitteſt to ſucceed, if this ſhould be; and they are for the moſt part

"divided.

" divided between the prince of Orange and duke of Monmouth. The " firſt hath plainly the moſt plauſible title, by his mother and his " wife; but, beſides the opinion of the influence it is believed the " duke of York would have over him, it is feared that the common- " wealth-party in Holland, would be ſo frighted with that, as to caſt " itſelf abſolutely into the hands of the king of France, who might " thereby have a fair occaſion of ruining both England and Holland." I need not tell you the reaſons againſt Monmouth; but the ſtrongeſt I hear alleged for him are, that whoſoever is oppoſed to York, will have a good party, and all Scotland, which is every day like to be in arms, doth certainly favour him, " and may probably be of as " much importance in the troubles that are now likely to fall upon " us, as they were in the beginning of the laſt." Others are only upon negatives. But when I have ſaid what I can upon this buſineſs, I muſt confeſs I do not know three men of a mind, and that a ſpirit of giddineſs reigns amongſt us, far beyond any I have ever obſerved in my life.

Nothing was done the laſt week concerning the popiſh lords in the tower. The earl of Danby on Saturday laſt did inſiſt upon his former plea and anſwer, how little ſenſe ſoever there be in it. Some ſay it is, *ex induſtria perplexa*; and that having the court and houſe of lords to favour him, he cares not for the inconſiſtence of proteſting his innocence, which renders his pardon uſeleſs, and pleading his pardon, which is a confeſſion of guilt; hoping that if the commons do demur in law upon the two points, (firſt, that the king cannot pardon a delinquent impeached by one commoner, much leſs by all the commons in England; ſecondly, that though it were granted he might pardon, this pardon could not hold, becauſe it wants all the formalities) the lords would over-rule it, and then he is acquitted.

The bill for the *Habeas Corpus* was paſſed by the lords on Friday laſt, and ſent down to the commons. The ſame day they alſo paſſed an act for the baniſhing of the papiſts out of London, *and penned it ſo well by the induſtry of the biſhops, that if the commons ſhould paſs it without amendment, all the non-conformiſts of London would be driven out of town, and half the ſhops ſhut up.* The bill for diſbanding the army is paſſed the two houſes, and I preſume will not ſtay long for the royal aſſent. The lords did aſſent to the vote of the commons, that the duke being a papiſt, had been the occaſion of the plot, but added the word *unwillingly*. The whole buſineſs formerly mentioned of the earl of Danby's endeavour to ſuborn Bedloe to renounce his teſtimony, was the laſt week verified before a committee of lords, and Dumblain his man confeſſed he had been employed to do it; ſo that his lordſhip is found to have done juſt the ſame thing, for which Reading ſtood the laſt week in the pillory. Some ſcholars ſent from St. Omers were lately apprehended by Sir William Waller, and confeſs they are ſent hither by the jeſuits, by any means to invalidate

Oates and Bedloe's teſtimonies, but they rather confirm them. The lord Roſs having been put out of the houſe of commons, is by writ called to the houſe of lords. Sir John Hartop, who petitioned againſt him, is, upon the invalidating of his election, choſen by the freeholders of the county, and took his place in the houſe on Friday. This day is appointed for the new election in Norfolk, and it is thought Sir John Hobbert will have the ſame ſucceſs.

Sir, I deſire you to tell Monſieur de Ruvygny the younger, that upon his recommendation I did addreſs the duke de Gramont's eſquire, to the places where all the beſt horſes in England are to be had; but he has rid four hundred miles, and is returned without liking any. To ſay the truth, he is ſuch a proud aſs, that he neither knows what is good, nor will believe any body elſe. I had directed him to ſee two, that are ſaid to be as fine young horſes of five years old as any are in England, which having never been trained were fat, and as he ſaid, *trop relevee*. Near Lincoln he ſaw two of the lord Caſtletown's, which had the ſame faults. At the lord Burlington's in Yorkſhire he ſaw one, that is thought to be worth as much as any one in England, bred of an Arabian, ſix years old paſſed, never run but once at Kipling, and then won the plate; and being now thin, and drawn for another courſe, he is to run within this week, this wiſe gentleman took him for a mazette: he did the like with ſome others in the ſame place and at the marquis of Wincheſter's; upon all which I have no more to ſay to Monſ. Ruvygny, than that he ſhould find a way to revive Bucephalus, or ſend a man that hath more wit than this, to take ſuch as the world affords.

The horrible reports made from France of poiſoning, affright reaſonable perſons here, as much as the diſcourſes of the fleet at Breſt do fools.

The houſe of commons have voted that the pardon pretended by the earl of Danby was of no value, and went up to deſire juſtice upon him of the houſe of lords. *We live in a time that no man, by what is paſſed, can well judge what is to be expected for the future*; but I am much inclined to believe, that Danby having in this laſt act followed his own diſpoſition, that ever delighted in juggling and indirectneſs, will, by the tricks he hath played, have found a way to hang himſelf. It is ſaid, that the king will be at the houſe to-morrow, in his robes, to paſs the act for diſbanding the army. This morning, ſecretary Coventry not being well, the lord Ruſſel from the king declared unto the houſe of commons, he expected no ſupply from them this ſeſſions, but deſired care might be taken of the navy. I am,

Your moſt humble and faithful ſervant.

Sir, London, May 12.

I have received your letter of May 13, and continue my cuſtom of giving you once a week an account of what comes to my knowledge, though to diſcourage me *I can only make the unpleaſant relations of ſuch diſorders here, as in my opinion threaten us with the greateſt miſchiefs that can befal a nation.* The three that I meant in my letter, that you would have me explain, were the earls of Sunderland, Eſſex, and Halifax, and I am ſtill of the ſame mind, ſo far as the power of the court goes.

The laſt week was ſpent for the moſt part in janglings between the two houſes, upon points of privilege relating unto the rights the lords pretend unto in points of judicatories; which the lords Frecheville, Berkeley, Ferrers, Ayleſbury, Northampton, and ſome others equal unto them in underſtanding, eloquence and reputation, do with the help of the biſhops very magnanimouſly defend. Several propoſals have been made by the commons of conferring with them upon all the points in queſtion, or appointing a committee of both houſes, which, meeting together, might adjuſt all thoſe that might be occaſion of difference; but their lordſhips diſdaining to confer upon points that as they did ſuppoſe depended wholly upon their will, on Friday laſt did vote that they would have no ſuch committee, which vote was carried only by two voices, the one ſide having 54, the other 52. Of eighteen biſhops that were preſent, ſixteen were on the victorious ſide, and only Durham and Carliſle were ſo humble as to join with the vanquiſhed. Of thoſe 52, one and fifty the next day proteſted, and I think only lazineſs hindered the earl of Leiceſter, who was the other, not to proteſt, as well as the others with whom he had voted. On Saturday there was a conference between the two houſes upon this buſineſs, and it appearing that all proceedings would ſtop thereupon, it being impoſſible for two to agree upon any thing, unleſs their thoughts and reaſons are communicated, they were pleaſed yeſterday to recede from that vote, and appointed a committee of twelve lords to confer with a double number of commons thereupon.

The houſe of commons have made an addreſs unto his majeſty, deſiring him to remove the duke of Latherdale * out of all employments in England and Ireland, and from his preſence for ever; to which they received a dilatory anſwer.

The archbiſhop of St. Andrew's hath been lately murther'd in his coach three miles from St. Andrew's, by ten men, that there ſet upon him, of which two were taken by ſome horſe that came ſuddenly to the place. It is not known who they are, nor who employed them; but Latherdale is graciouſly pleaſed to lay it upon the non-conformiſts, and hath thereupon cauſed a very ſevere proclamation to be iſſued out againſt them: but others believe it was upon a private quarrel with ſome gentlemen, that by fraud and power the prelate had thrown out

* Lauderdale.

of

of their eſtates, *he having been moſt remarkable for outragious coveteouſneſs, beſides other epiſcopal qualities.*

The houſe of commons have forbidden all commoners of England to be of counſel to the earl of Danby, under the pain of being eſteemed betrayers of the rights of all the commons, by whom he is accuſed, unleſs leave be aſked and given by them. The bill for diſbanding the army is paſſed. On Saturday the king having appointed ſixteen ſmall pieces of ordnance to be ſent to Portſmouth, notice was taken thereof in the houſe of commons, and a great ſuſpicion, that they being ſent with field-carriages, harneſſes for horſes, and all neceſſaries belonging to the train of a marching army, they might be intended rather for ſuch an uſe, than to furniſh a garriſon as is pretended. At the ſame time reports were ſpread, that the duke of York was returned into England, or hourly expected, and ſome believe his buſineſs is to hinder the diſbanding of the army, with ſuch others as the knowledge of his nature, together with the perſons that command in Portſmouth, the Iſle of Wight, and ſome other places may ſuggeſt, in the moſt jealous time that I have ever lived in.

The houſe of commons ſat yeſterday, being Sunday, to hear ſuch papers read, as the ſecret committee thought fit to produce relating to the duke of York, which had been found amongſt the cardinal of Norfolk's papers, and other places. They are many in number, which ſpeak of his aſſenting unto and approving of the plot in all points, but none directed to him, or written by him. Many various motions were made, but in the end it was ordered, that a bill ſhould be drawn up, to debar him from the ſucceſſion of the crown. Sir Francis Winnington and Mr. Vaughan would have put off the debate, until the trial of Danby and the popiſh lords was over. Sir William Coventry, ſir Thomas Littleton, and others, ſpoke directly againſt the thing, but the major part by much was of the other opinion, ſo that on the diviſion appointed upon the queſtion, whether there ſhould be candles, the inequality was ſo great, that the pains of telling was ſpared, and when the main queſtion was put, there was no diviſion at all. Not to trouble you with many particulars, I will only recite one, which is, that a gentleman moving the words ſhould be put in, "Or ever have been "a papiſt," they were laid aſide, as ſome believe, in reſpect unto him, who by the direction of the late lord Crofts, was brought up under the diſcipline of the *Peres de l'Oratoire.* The next work was to make an addreſs to his majeſty, full of humility and loyalty, expreſſing their utmoſt reſolution to ſerve him with their lives and fortunes in the preſervation of the proteſtant religion.

I hope the new method reſolved upon here, in relation unto public miniſters, will be of as little prejudice unto you where you are, as the report of the occaſion which began with you will do you here. I am,

Your moſt humble and faithful ſervant.

Sir, London, May 19.

I have been abroad all this day, and come with a head ſo diſordered with the eaſt-wind and duſt, that I can ſay very little this night. The lords and commons have not yet found the way of agreeing upon the method of trying the earl of Danby and the other lords. The biſhops are the principal cauſes of the diſpute, affecting a right to ſit as judges, and content themſelves to leave the exerciſe of it to the papiſts, but with a proteſtation that the precedent be not alleged againſt them for the future, but inſiſt upon ſitting in the earl of Danby's caſe, until they come to vote upon life or death; and to ſhew how ingenious they are in that point, they profeſs they do no prejudice to their calling, in being his judges, reſolving not to condemn him. The truth is, that buſineſs is full of a multitude of difficulties, that are very hard to decide; the chief of which are, firſt, whether the king hath power to pardon one impeached by the commons; ſecondly, whether that judgement belonging to the declaratory part of the law, is to be given by one or both houſes. Thirdly, in caſe the king can pardon, whether this hath the formalities required. Fourthly, if this pardon be not good, whether he may be admitted to plead any thing elſe. Fifthly, if he may plead, whether the points he is accuſed of amount to treaſon, which may probably exerciſe the houſe until it be diſſolved or prorogued. The two houſes differ alſo, in that the lords would firſt try the popiſh lords, and the commons would give the preference to Danby.

The duke Hamilton arrived the laſt week from Scotland with a great train, and was received here in triumph: all that come with him ſay, the archbiſhop of St. Andrew's was killed by one that had been his own ſteward, and others that were not conventicle-men.

The *ſevere bill* againſt the *duke of York* was read on Thurſday laſt, and is appointed to be read again to-morrow. It recites the pope's pretenſions to power over kings, particularly in England, the immorality of the Roman religion, incompatibility of thoſe that profeſs it with Engliſh proteſtants, their perpetual plots againſt the government, ſedulity in ſeducing the duke, and a multitude of other things of the like nature in the preamble; aſſerts the power of parliament to diſpoſe of the ſucceſſion, as beſt conduced to the good of the kingdom, which had been often exerciſed in debarring thoſe that were neareſt in blood, but never with ſo much reaſon as now: wherefore it doth enact, "that the duke ſhould "be, and was thereby excluded; declares him attainted of high treaſon, "if he landed in England before or after the king's death; forbids com- "merce or correſpondency with him, under the ſame penalty of treaſon." This pleaſeth the city ſo well, that a petition is framing there, which will be preſented in two days, *ſigned by one hundred thouſand men*, to give thanks unto the parliament for their vigorous proceeding in diſcovering the plot, and oppoſing of popery, and promiſing to aſſiſt them in ſo doing with their lives and fortunes.

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The committee of lords being informed that ſome important papers were hid in a wall at Tart-hall, they ſent to break it, and in a copper box found thoſe which the attorney general ſays give more light into the plot, than all they had formerly ſeen; but particularly againſt the lord Stafford. I am almoſt aſleep, and can only aſſure you, I am,

Your moſt humble and faithful ſervant.

Sir, London, June $\frac{2}{12}$.

Your nephew arrived here laſt night, and I going to welcome him received your letter from him. His friends find he bears in his face too fair marks of a Spaniſh journey, but in all things elſe, I believe he will give them as entire ſatisfaction as unto me, who ever had an extraordinary good opinion of him.

This day was ſe'nnight the prorogation of the parliament was ſpoken of, but being then uncertain, and (as I thought) not like to be, I was not willing to mention it; but it fell out the next day, and all men's wits have been ſcrewed ever ſince that day to find out the conſequences. Every body hath had his conjecture, and the moſt ignorant ſhewed themſelves the moſt bold in aſſerting their opinions. Many find that the king would not have done it, if he had not reſolved to ſend for the *duke*, keep up the army, deſire aſſiſtances from abroad, ſell Jerſey and Tangier to the French, (for which Mr. Savile is to make the bargain) ſet the earl of Danby at liberty, and with the help of the papiſts and biſhops ſet up for himſelf. But inſtead of this we ſee little reaſon to believe the duke will think himſelf well here. The army is in part *diſbanded*, and had been entirely before this day, if it had pleaſed colonel Birch. The place from whence the foreign aſſiſtances ſhould come is not known: Mr. Savile is not thought very good at ſuch treaties: The earl of Danby is like to lie where he is, and the utmoſt help his majeſty can (for ought I hear) expect, until the parliament do meet, is, by Fox, Kent, and Duncomb's credit, which perhaps will not be found to be very ſteddy foundation. No man will avow having been the king's counſellor in this buſineſs; and ſome wonder, that his majeſty in conſtituting the privy council, having promiſed that he would have no cabinet council, but that he would in all things follow their advices, next unto thoſe of his great council the parliament; ſhould ſo ſuddenly prorogue that great council, without ſo much as aſking the other. This fills men with many ill humours; the parliament-men go down diſcontented, and are like by their reports to add unto the diſcontents of the countries, which are already very great; and the fears from the papiſts at home, and their friends abroad, being added thereunto, they begin to look more than formerly unto the means of preſerving themſelves.

There hath been a ſuit at law in Scotland, between the earl of Argyle, and one Maclaine, a great man in the Highlands, and the earl

(as

(as is ſaid) by the favour of duke Latherdale, hath obtained a decree for the lands in queſtion; which by order from hence, is to be put into execution, by the ſtrength of all the king's forces in Scotland, and fire and ſword to be uſed in caſe they find reſiſtance; as probably they will, Maclaine reſolving he will not be turned out of his ancient inheritance by a trick in law, and a decree from corrupt judges. This man being head of a numerous and ſtout people, helped by the faſtneſs and poverty of their country, may perhaps make good what he propoſeth unto himſelf; and to ſhew he is not to be ſurpriſed, he hath already entered into Argyle's country with 800 or 1000 men. The earl of Athol is his neighbour, friend, and enemy to Argyle, ſo as it is believed, he may give him ſecret aſſiſtance at the firſt, and afterwards more openly. About the ſame time a proclamation was there publiſhed, making it treaſon to be preſent at any of the field-conventicles that are armed; and every man knowing the preſſures they are expoſed unto if they go diſarmed, they muſt incur the penalties, or abſtain wholly from going, which they will hardly be perſuaded unto. Things being thus brought unto extremities, the king hath been perſuaded to give a hearing unto what the duke Hamilton, and other Scotch lords, have to ſay againſt Latherdale, as is appointed before the council.

Two aſſociates were offered unto Sir Thomas Chichely, for the better executing of his office of maſter of the ordnance; but he thinking that an affront to a man of ſo eminent abilities as himſelf, refuſed them, which hath obliged the king to diſmiſs him from the place, and put it into commiſſion, as ſome others have been; ſir Thomas Littleton, ſir William Hickman, and ſir Joſeph Lowther are ſaid to be the men. If what is ſaid be true, the ill management of the treaſury was not more extreme, than this of the ordnance; for beſides the extravagancies *of furniſhing the French armies, with arms and ammunition,* (whereas the ſtores were fuller two years ago than ever they were known to have been) there are now but ſix hundred muſkets left in the tower, and other things in proportion.

Some think theſe ways of *employing many parliament-men,* may ſtrengthen the king's party in the houſe. Others think, *that a king is ever a loſer when he enters into a faction, and* * *bandys againſt his ſubjects;*

[* *Bandys againſt his ſubjects;*]

That I never knew *but one foreigner* that underſtood *England well,* which was *Gourville,* whom I knew the King [Charles II.] eſteemed the ſoundeſt head of any Frenchman he had ever ſeen. That when I was at Bruſſels in the firſt Dutch war, and he had heard the People grew weary of it, he ſaid, "The King had nothing to do but to make the peace. That he had been long enough in *England,* ſeen enough of our Court and People, and Parliament to conclude, *Qu'un Roi d'Angleterre qui veut être l'homme de ſon peuple, eſt le plus grand roi du monde; mais s'il veut être quelque choſe d'avantage, par Dieu il n'eſt plus rien.*" The King [C. II.] heard me very attentively, but ſeemed a little impatient at firſt. Yet at laſt he ſaid, "I had reaſon in all, and ſo had *Gourville;*" and laying his hand upon mine, added, "*Et je veux être l'homme de mon peuple.*"

Sir *W. Temple*'s works.

jects; beſide that theſe men will loſe their credit, and, having only ſingle votes, will be overpowered by number. I do not find the new privy counſellors well at eaſe, and am not free from fear, that whilſt they endeavour to keep fair with both parties, they may give diſtaſte unto both. Harry Sydney is to go envoy extraordinary into Holland, and yeſterday the king declared unto him his intention to that purpoſe.

Vanlieu the Holland ambaſſador is arrived, and Van Beuninghen going away. He made the laſt week a great noiſe about a meſſage ſent by the king of France unto his maſters, concerning the contribution-money due from the country about Breda; denouncing in a very terrible manner, his intention of levying it by force, if it were not paid; and that in an *Ottoman* ſtile, which unto ſome ſilly people gave as ſilly a hope, that the peace would break, and the league be renewed againſt the French; but the French ambaſſador ſays, it is a thing of no moment at all, and already compoſed. However I ſee no inclinations in diſcreet men here, to deſire ſuch a diſcompoſure of things abroad, as ſhould engage us to take any part in them, until our affairs are better ſettled at home than they are yet like to be.

Ireland is in extreme diſorder, by the duke of Ormond's negligence, ignorance, and favour to the Iriſh. Douglas's regiment thinking to uſe the ſame licentiouſneſs at Kinſale, as it had been accuſtomed to in France, gives great diſtaſte, and apprehenſions of ſuch works as began almoſt by the ſame ways in 1641. Old Roberts, in appearing of late for the king and biſhops, thinks himſelf of merit to ſucceed him; but he is as ſingular in that opinion as in many others.

Some that know matters better than I do, muſt tell you, whether we ſhall have the ſame parliament, at the end of the prorogation, or a new one, or none at all. But I think, this, or another will be found neceſſary; and if this be diſſolved, another will be choſen of leſs inclinations to favour the court. The four prieſts are ſent down to be hanged, where they were condemned. The council gave order to the lord mayor, to be very diligent in putting the proclamations againſt the papiſts in execution, and careful under that name not to trouble proteſtant diſſenters. It is ſaid that Langhorne, Wakeman, ſir Joſeph Gage, ſir William Goring, and other popiſh commoners, ſhall be ſoon brought to their trial. Now the parliament doth not ſit, little news will be ſtirring, but you ſhall conſtantly have ſuch as I know, or any other ſervice that lies in the power of

Your moſt humble ſervant.

There is no civil government that hath been known, no not the *Spartan* nor the *Roman*, though both for this reſpect ſo much prais'd by the wiſe *Polybius*, more divinely and harmoniouſly tun'd, more equally balanc'd as it were by the hand and ſcale of Juſtice, than is the Commonwealth of *England*: where under a free and untutor'd *Monarch*, the nobleſt, worthieſt, and moſt prudent men, with full approbation and ſuffrage of the people, have in their power the ſupreme and final determination of higheſt affairs.

Of Reformation touching church-diſcipline in *England*: And the cauſes that hitherto have hindered it. Two books, written to a friend [by John Milton], London printed 1641, in quarto, p. 72.

Sir, London, June $\frac{9}{19}$.

The beſt news I can now ſend you, is, that your nephew and mine is looked upon as we wiſh, and I believe he will perform all that you and I expect from him.

There hath been a ſuit at law depending this good while in Scotland, between the earl of Argyle, and one Maclaine, the head of a great and numerous family in the highlands. The earl (as is ſaid) by the help of the duke of Latherdale, obtained of late a decree for the poſſeſſion of the lands in queſtion, and an order was ſent from hence unto the king's officers, to aſſiſt the earl in executing the decree, and uſe fire and ſword againſt ſuch as ſhould oppoſe it; which was ſo far proſecuted, that he with 300 of the king's men and 500 of his own, raiſed upon an iſland of Maclaine's, which he was not able to defend, or perhaps thought it his beſt courſe by way of diverſion to draw Argyle from thence; but what reaſon ſoever perſwaded him, he ſaid he would not be put out of the inheritance of his anceſtors by a trick in law, and the corruption of the judges; and joining the Macdonnalds unto himſelf, fell into Argyle's country with near 3000 men, where he found no reſiſtance; the lady of Argyle was obliged to leave her houſe, and in ſome haſte retired to Edinburgh to get relief, which could not eaſily be granted, leſt the fanaticks ſhould take advantage of the king's forces being ſo employed. Some ſay this is only a family feud, others believe it hath a deeper root; but whatſoever this is, no man doubts of the truth of the news brought hither by an expreſs on Saturday morning; which is, that the conventicle-men in the county of Glaſgow are in arms; that one captain Grimes coming ſomething too near them, with his troop and other forces, was beaten back, with the loſs of his cornet and fourteen troopers; which according to the poſture he found them in, he was perſwaded to content himſelf with, rather than to preſs farther. The council was called upon this occaſion on Saturday laſt, but nothing (as I hear) reſolved until they hear more, ſome doubting whether it be a laid buſineſs, or a ſudden tumult raiſed by accident. I know not the truth of this, *but the diſcourſes I have heard very often of late, of thoſe who every day expected ſome ſuch thing*, perſuades me to believe it is not fallen out by chance. Though no reſolution was taken at council upon this matter, it is ſaid, that private orders are given out to ſeveral officers of the late diſbanded troops, to get their men again together; and to others, upon the moſt plauſible pretences that they can invent, to delay their diſbanding as much as may be. Theſe ſuſpicions go too far, and already reach ſome of your friends and mine, to ſuch a degree, *that counſellors are rather ſaid to be changed than councils*; and if they do not find a way to cure that ſore, at the next meeting of the parliament, they will be looked on as their predeceſſors. If nothing from Scotland hinders, the court will go to Windſor to-morrow. I preſume you know that H. Sydney hath bought Mr. Godolphin's place of maſter of the robes, gives 6000 pounds, and is to go envoy extraordi-

nary into Holland. The lord Ranelagh for the ſaid ſum paid to the lord Sunderland is made gentleman of the bed-chamber in his place, and the great buſineſs concerning his account is referred to the council in Ireland.

Many things may paſs in the town, that you may be willing to hear, but they come not into the cell that covers

Your moſt humble ſervant.

Sir, London, June $\frac{16}{26}$.

The Scotch news that I mentioned to you laſt week, doth ſtill poſſeſs the minds of all men here; but all relations that come from Scotland are ſo imperfect, that no man knows what to make of them; and thoſe that come to court being more particularly ſo than others, no men are thought to underſtand leſs of the buſineſs than privy counſellors. This is attributed to Latherdale; and though it be concluded, that what he ſays is not true, ſome think the buſineſs worſe, others better, than it is repreſented. The fact, as far as I hear, is, that the earl of Lithco with above five and twenty hundred horſe and foot did come within a few miles of the conventicle-men, and finding them in ſuch a poſture, as he did not think it prudent to charge them, he concluded the beſt was to let them take Glaſgow, where they are ſaid to have found good ſtore of arms, ammunition and ſome cannon, and having left ſo many men in the town as are thought ſufficient to guard it, they march with four pieces. They are ſaid to encreaſe in number every day, but we know nothing of them certainly, unleſs it be that they have no landed men amongſt them, nor any gentlemen, but a younger brother to a knight of the Hamilton family. The laſt week we heard of nothing but raiſing of great forces to ſubdue theſe rebels. The dukes of Monmouth, Albemarle, and lord Garret were to have regiments of horſe, Feverſham one of dragoons and grenadiers, the lord Cavendiſh, Grey of Werk, Mr. T. Thynne, and ſome others, regiments of foot; but that heat ſeems to be ſomething abated. The lord Grey gave up his commiſſion, Mr. Thynne refuſed to take any; Cavendiſh doth not raiſe any men upon his, and Garret ſwears he will not be at a penny charge to raiſe a man, but if the commiſſioners for the treaſury will raiſe him a regiment, and provide money to pay it, he will command it. Whilſt ways were ſought to remove theſe difficulties, the Scotch lords that are here endeavoured to perſuade them that the buſineſs may be ended by far more certain and leſs chargeable ways, in as much as theſe men having been driven into a neceſſity of taking arms, by the extreme preſſure ſuffered from thoſe that did abuſe the authority his majeſty had truſted them with, the people being eaſed of thoſe burthens, the perſons removed that had cauſed them, and ſuch men placed in the government, as were acceptable to the nation, they durſt undertake that all may be compoſed without blood. This was not

(as I hear) diſliked, but another point was ſtarted, that doth yet more incline the court to mild courſes; which is in the year 1641 acts of parliament were made in both kingdoms, making it treaſon for any perſon belonging unto either to make war upon or invade the other, without the conſent of parliament. And though one or two of the judges ſay, that the acts being reciprocal, the Scots having reſcinded theirs, ours falls of itſelf; or though it did not, the act forbidding an invaſion, no ways toucheth ſuch as by the king's command ſhould go to ſubdue rebels; others ſay, that what the Scots did might indeed give unto the parliament of England a juſt ground of annulling their act alſo, but not having done it, no man can doubt but it remains in force; and whoſoever marcheth againſt Scotland incurs the penalties of treaſon denounced by it. And ſome that were preſent at the making of it, are ſo far from approving the diſtinction between *invading* and *ſubduing* rebels as to ſay, that the parliament then finding they had been upon the like pretence engaged againſt Scotland in 1638 and 39, made this act expreſsly to hinder any ſuch buſineſs as that which is now depending; and to take care * that England ſhould never be again engaged againſt Scotland, without the conſent of the parliament; which was alſo the reaſon why the act was continued in force on our ſide; though it was diſſolved on theirs. This renders men of eſtates unwilling to engage; and hereupon the duke of Monmouth was ſent away yeſterday in ſuch haſte, as to carry no more company with *him, than could* go in one day to your good town of Newark, where he was to lodge the laſt night. He is furniſhed with powers of indulgence to compoſe rather than deſtroy; and the lord Melvin (who is thought well enough inclined to non-conformiſts, and well liked by them) is ſent with him, as being thought a fit miniſter of a good agreement. The foot that was embarked in the Thames is gone for Berwick, where it is to ſtay to ſecure the town; and the other forces, that are newly entertained, are to continue only for a month. This looks as if your friend Latherdale may within a while be left as naked as the earl of Danby. The army is almoſt every where diſbanded, unleſs it be theſe that upon this occaſion are again taken into pay, and the countries almoſt every where expreſs the utmoſt hatred unto them, as ſoon as they have laid down their arms. Douglas's regiment now in Ireland, as is

[* *That England ſhould never again be engaged againſt Scotland*]

Go on both hand in hand *O nations never to be diſunited*, be the praiſe and heroic ſong of all poſterity; *merit this, but ſeek only virtue, not to extend your limits*; for what needs? To win a fading triumphant laurel out of the tears of wretched men, *but to ſettle the pure worſhip of God in his church, and juſtice in the ſtate.* Then ſhall the hardeſt difficulties ſmooth out themſelves before you; envy ſhall ſink to hell, craft and malice be confounded, whether it be home-bred miſchief, or outlandiſh cunning: yea all other nations will then covet to ſerve you, *for Lordſhip and Victory are but the pages of Juſtice and Virtue.* Commit ſecurely to true Wiſdom the vanquiſhing and uncaſing of craft and ſubtlety, which are but her two runnagates: *join your invincible might to do worthy, and godlike deeds, and then he that ſeeks to break your union, a cleaving curſe be his inheritance to all generations.*

Of Reformation by *John Milton*.

ſaid,

ſaid, hath orders to march into Scotland, which giving people occaſion to talk of that country, they ſay that the king having lately placed the greateſt powers of the three kingdoms in the hands of the three worſt men that could be found in them, can never be at eaſe until they are all ſacrificed, to expiate the faults of the government, and appeaſe the diſcontents of the nation.

Harry Sydney hath his inſtructions for Holland. Sir Henry Goodrike is going into Spain, as a pattern by which that court may judge of the wit and good ſenſe of our nation. On Friday laſt Harcourt, Whitebread, and three other prieſts were, at the Old Baily, found guilty of the plot, and condemned as traitors. On Saturday the like ſentence paſſed upon Langhorne. The trials were in all reſpects fair, even by the confeſſion of the adverſaries. The arraigned perſons placed all the hopes of their defence upon the invalidating of Oates's teſtimony, to which end they had about 16 witneſſes ſent from St. Omers, to aſſert that they had ſeen him every day in May and June was a twelvemonth at St. Omers, and conſequently he could not be here as he doth aſſert; but as three of them, having been apprehended by ſir William Waller, at their firſt coming, told him they were come to be witneſſes, and being aſked what they were to witneſs, *they ſaid they muſt know that from their ſuperiors*; it did plainly appear at the trial, that they were ready to ſay whatever they were bid; and Oates did plainly prove by a knight and two of his ſervants, two proteſtant parſons, a popiſh prieſt, and ſome others, that he was here at that time; ſo as his teſtimony was taken without diſpute. This is a dangerous leading caſe for the lords in the tower, whoſe principal hopes were to invalidate the teſtimony of Oates, Bedloe, and Dugdale; all which being confirmed by the judgment of a jury in the face of all London, cannot be queſtioned. Wakeman was to have been tried the ſame day, but being arraigned the trial was put off for a month, as is ſaid, at the ſollicitation of the Portugal ambaſſador, and in a way that to many ſeemed ſcandalous. If the Scotch buſineſs be ſettled, the king will go to Windſor as he intended. You may remember that the laſt year four Iriſhmen were ſpoken of, for having been ſent down thither to attempt upon the king's life; it is now ſaid that one Antonio, a ſervant to the queen, told one belonging to the duke of Monmouth at that time, that four Iriſhmen were expected there about a buſineſs of great importance; and the king's harbinger ſays, four ſuch were then recommended to him, as men he muſt take a care of, and ſee well lodged. How little ſoever I have to ſay, I fill my paper like a Gazette, and have room only to add that I am,

Your humble and faithful ſervant.

Sir, London, June 23. July 2.

I told you in my laſt, that the duke of Monmouth was gone towards Scotland, ſince which time reports have been ſo various, that no man well knows what to make of that buſineſs; and the cauſe of this uncertainty is imputed to the diligence of the king's officers, who intercept and keep all letters directed unto perſons any ways ſuſpected, ſo that no more is known, than they think fit to divulge. An expreſs arrived here on Saturday-night from Edinburgh, and brought news that the duke of Monmouth arrived there on Wedneſday: that he had been received with great joy, and as much honour, as thoſe that were there could ſhew unto him; that the council having been immediately called, he expoſed unto them his commiſſion, which was very well liked; that the chancellor invited him to ſupper that night, and that he was the next morning to go to the army, having firſt ſent an expreſs to the lord Lithco *, that commands it, no ways to engage in any action before he comes. Some think that he hath the conventicle-men at an advantage, and will purſue it to their deſtruction. Others ſay, that upon the extreme averſion that is ſhewn all over England to a war in Scotland, and the little probability yet appearing of the parliament's being any ways engageable in it, he hath received much more gentle inſtructions, and intends by the help of the lord Melvin, to compoſe thoſe buſineſſes if he can; and if he can accompliſh it, will certainly render himſelf very popular in England and Scotland.

The duke Hamilton and ſome other Scotch lords, having let his majeſty know, that the diſorders in Scotland proceeded only from the extreme preſſures the people were brought under, by thoſe who contrary to law abuſed the power his majeſty had truſted them with, did undertake to finiſh all without blood, if he would be pleaſed to eaſe them of thoſe preſſures, and, removing thoſe who had cauſed them, put the government of the kingdom into the hands of ſuch perſons as were well-pleaſing unto the nation. This having been taken into conſideration for ſome days, the duke Hamilton with the reſt, and one Lockhart, were ſent for by the king, who told them, the points formerly ſpoken of did relate unto his *prerogative*, which in *three points* he would not ſuffer to be touched: 1ſt, That he having a right of diſpoſing of all *places*, might incapacitate ſuch perſons as he ſhould think fit: 2dly, That it belonging to him to prevent *conſpiracies*, he might ſecure and impriſon ſuſpected perſons; and that there was no ſuch thing as a Habeas Corpus in Scotland, nor ſhould be as long as he liv'd: 3dly, That it being his part to prevent or to quell rebellions, he might raiſe ſuch forces as he pleaſed, quarter them where he thought fit, and employ them as occaſion ſhould require. To which Lockhart replied, that the *places* in queſtion were thoſe belonging to counties and corporations, which had ever been choſen by the *people* reſpectively according to their charters. And as to what concerns conſpiracies and *rebellions*, he thought he could prove, that what

* Linlithgow.

his

his majeſty did aſſert did neither agree with the laws of Scotland, nor any other law, nor the ends for which that, or any other government was conſtituted.

The next point in diſcourſe was concerning ſome articles exhibited againſt Latherdale; in which it is ſaid, that "his Majeſty for ſeveral "years paſſed had been utterly miſinformed, and never known the truth "of any thing relating unto Scotland, but been guided by ſuch reports "as beſt ſuited with Latherdale's intereſts." That he had been thereby induced to bring down the laſt year that army of barbarous Highlanders, upon pretence of mutinous and ſeditious field-conventicles; whereas ſuch meetings as had been, were modeſt and quiet; and quartered them in thoſe countries where there never had been any at all. Several other miſdemeanors are ſaid to be mentioned, and amongſt others, that of Michell, who had been put to death after having had a promiſe of life and limb, by falſe oaths made by Latherdale and ſome others of the privy council. The concluſion was, *the king commanded the Duke, that theſe articles ſhould not be made publick.* In which he excuſed himſelf, foraſmuch as having done nothing in the dark, ſeveral copies had been taken, which were not in his power. Some ſay, we ſhall this day ſee them in print, with the declaration of the conventicle-men, printed at Glaſgow, which is very well worth ſeeing. The forces of theſe conventicle-men, or, as they call themſelves, the Weſtern army, are variouſly reported. Some ſay, they have 14000 or 15000 men; others, that this day was a ſe'nnight they had, not far from Stirling, between two and three thouſand horſe, well armed and mounted, with about the like number of foot; that a brother of the earl of Galloway was coming to them, and within three hours march, with above four hundred horſe and foot, and that they had parties of good ſtrength in ſeveral other places.

The five prieſts formerly condemned, were executed on Saturday, confeſſing nothing. Langhorne is reprieved for ſome time, upon his offer to confeſs that which ſhall deſerve his life. The earl of Shafteſbury hath been twice with him, but, as is ſaid, hath as yet gained nothing from him, but the diſcovery of ſome lands belonging to the Jeſuits, Franciſcans, and Benedictins, not exceeding two thouſand pounds a year, which will not ſave his life. Wakeman is to be tried this week at the king's bench bar. His relations deſire he ſhould confeſs, and think he will. It is ſaid that about this time was a twelvemonth, ſome women viſiting his wife, ſaw a daughter of his, growing up to be marriageable, which gave occaſion to the goſſips to aſk the mother, what portion ſhe ſhould have? To which ſhe anſwered, that if one thing hit right, ſir George would give her ten thouſand pounds; which people now reflecting upon, together with the life and eſtate of the perſon, believe that one thing which was to enable him to give ſo large a portion, was the 15000 pounds, which was promiſed him to poiſon the king.

There

There is a certain petition preparing in London to be preſented unto the king, which, as is ſaid, will be ſigned by many lords, gentlemen, and all the principal houſeholders of the city of London, taking notice of the army having been raiſed upon pretence of the French war, kept up by Danby's means contrary to an act of parliament, as a ſtanding army. In the next place it mentions the acts of parliament made in England and Scotland, making it treaſon for the ſubjects of either kingdom to invade the other, or the ſubjects thereof, giving power and enjoining all other ſubjects of either to fall upon and deſtroy ſuch as ſhould in any time attempt to do it, as rebels and traitors; and ſhewing the dangerous conſequences of forcing the proteſtants of his kingdom to imbrue their hands in each others blood, if according to the rumour ſpread of a war in Scotland, any men ſhould contrary to the act march againſt them; deſiring his majeſty to put an end to their fears in that point, compoſe things there, ſuffer the parliament to meet the 14th of Auguſt, bring Danby and others to their trials, perfect the diſbanding of the army, and other new-rais'd forces. If this petition do take, as ſome believe, it will be ſent to the grand juries in the ſeveral counties, and come up ſigned by ſo many as ſhall approve of it. Some ſay, the Highlanders have laid down their arms, and ſubmit the determination of their differences with Argyle to the king.

The ſpeaker Jeffryes is made a baron of the exchequer in the place of Leake, who reſigned it. Whilſt I write this, news is come by an expreſs, that the duke of Monmouth is within a mile of the Scotch conventicle-men, who lodged them in duke Hamilton's little park, with ſo little ſkill and ſo much diſorder, that all men give them for loſt. I am ſure our friends will be as cautious as you wiſh concerning tickliſh places. H. Sydney is to be here again in October, but to return after the diſpatch of ſome private buſineſſes. I am,

Your moſt humble ſervant.

P. S. This long letter was to have been ſent by the laſt poſt, and left by accident till it is in danger of appearing unſeaſonable. A courier arrived the laſt night from Scotland, who brings word, that the duke of Monmouth had attacked the conventicle-men, and eaſily forcing a little barricado they had made to defend a bridge, had utterly defeated them. Some letters ſay, two thouſand are killed upon the place; but my lord Sunderland tells me there is only ſome hundreds ſlain, many taken, and the whole party diſſipated and deſtroyed; by which means it is ſaid, that the duke of Monmouth will have made himſelf as popular in England and Scotland as the duke of York. Men here will be ſtartled at preſent, but that will not hold. The Scotch lords here have been ſo wiſe as to leave their countrymen to be cut in pieces, but (as ſome believe) not enough to keep themſelves ſo free from correſponding with them, as not to leave that, which being well followed may bring their heads to the block. I am,

Your moſt humble and faithful ſervant.

I ſhall not be in town on Monday to write unto you according to my cuſtom. The peace of Brandenburgh could not be otherwiſe than as it is.

The gentleman, to whom the incloſed is addreſſed, hath received one letter that paſſed through your hands, and will wait upon you for this.

Sir, London, June 30. July 9.

I write to you now rather to keep my day, than from an opinion that theſe laſt days have produced any thing that deſerves to be communicated unto you. The news concerning the Scots, mentioned in my laſt, is confirmed by ſeveral expreſſes, and all ſhew their defeat to have been entire, the party diſſipated, and thoſe who eſcaped the fury of the ſword remain expoſed to the diſcretion of their conquerors. I find men's judgments as various, as to the uſe which will be made of this advantage, as of the duke of Monmouth's action in what is paſſed. Some did think that they being a poor people, brought into deſpair by the moſt violent perſecution, pitied by all both in England and Scotland, helped by none, without head or conduct, were to be ſpared; and that in doing ſo, he might have made himſelf very popular in both kingdoms, (which he is thought with reaſon much to deſire) and beſt to have provided for the king's intereſt. Others, who look upon it as a fine thing to kill a great many men, and believe monarchies are beſt kept up by terror, extol the action, and ſay there is no other way of ſuppreſſing old rebellions, or preventing new ones, than by force and rigour; looking upon Caligula as a great ſtateſman, and *oderint dum metuant* as a good maxim. Some think that the duke of Monmouth's firſt inſtructions were according to the firſt of theſe ways, but that he was followed by others, which favoured much of the ſecond; thoſe that were of the firſt opinion, do now think the beſt way were to compoſe things there, and by ſhewing indulgence not only in ſparing thoſe that are obnoxious, but in giving them ſuch indulgence in matters of conſcience, as may ſatisfy them, prevent the like, and pleaſe the body of the Engliſh nation, which hath given many tokens of being much concerned for them. On the other ſide, thoſe are not wanting who think the beſt way to bring that ſtubborn people into ſubjection, and keep them, as they call it, in peace, free from rebellions, is to uſe the utmoſt rigour upon thoſe that are in their power, and to diſcover who did in any meaſure aſſiſt or abet them; and in order thereunto the priſoners are uſed moſt cruelly, and it is ſaid, that at the leaſt forty of the moſt noted men amongſt them ſhall be put into the *boots* my lord of Latherdale hath brought into faſhion, to make them diſcover what correſpondence the great men held with them. I know not how far this may concern ſome that are, or lately have been here, but it is probable enough they may have the fortune that ordinarily accompanies them that pretending to be very ſubtile and keep well with both

both ſides, ever do too much or too little; and that whereas they might have prevented all tumults, if they had endeavoured it, by denying all manner of favour to the diſcontented people; or reformed the ſtate of that kingdom, if they would have taken the conduct of them, and very well provided for their own intereſt by either way, may have ruined theſe poor people by ſtirring them up, and leaving them to themſelves; brought the whole nation under the power of their enemy, and given ſuch advantages againſt themſelves, as may be their ruin, if they are purſued; that is, to periſh or be ſaved by the mercy of him they profeſs to abhor. Duke Hamilton complains he is ruined by this buſineſs, and that not only all the proviſions of victuals and corn and graſs upon the ground is deſtroyed, but that there is not a cow, one horſe or ſheep left upon his whole eſtate; and his own houſe had been plundered, if the Duke of Monmouth had not ſent an officer to preſerve it. But Latherdale ſays, he cannot believe that Hamilton's friends, tenants, and ſervants, would ſo far forget their dependence, obligations and good manners, as to deal uncivilly with him. Such as are near unto thoſe who manage buſineſſes may ſpeak poſitively of them, but I muſt as you ſee ſuſpend my judgment, until the duke of Monmouth comes back, which is expected in a few days.

The petition I mentioned in my laſt did meet with ſome interruption, but the defeat of the Scots put an end to it. Thoſe who uſe to extol all that relates to Rome, admire the conſtancy of the five prieſts executed the laſt week, *but we ſimple people find no more in it, than that the papiſts, by arts formerly unknown to mankind, have found ways of reconciling falſhood in the utmoſt degree with the hopes of ſalvation, and at the beſt have no more to brag of, than that they have made men die with lies in their mouths.* Langhorne's diſcoveries being trivial, relating only to lands of a ſmall value belonging to convents, I think he will be hanged this day or to-morrow. Wakeman's trial is put off, as is believed, to avoid the indecency of the diſcourſes that would have been made. This day and to-morrow will bring all the court to Windſor. The king is to meet the council every Thurſday at Hampton court, and we of the vulgar expect after their firſt meeting to hear, whether the parliament ſhall meet or no, at the time appointed. Some ſpeak as if our ſmall queen, upon pretence of going to Burton, would be ſo cruel as to leave us. I am,

Your humble and faithful ſervant.

Sir, London, July $\frac{10}{20}$.

If I had a mind to play the politic, like a houſe of commons man newly preferred to be a privy counſellor, I ſhould very gravely excuſe myſelf for not writing to you by the laſt poſt, and lay the fault upon my want of leiſure, putting as much weight upon a law-ſuit, as they do upon affairs of ſtate; but having at their coſts learnt, that thoſe who make ſuch diſcourſes, cheat none but themſelves, I ingenuouſly confeſs I had

nothing to ſay; and that now the parliament is prorogued and the court at Windſor, I hear little more than I ſhall do when I am dead. The truth is, ſome of our friends being newly grown men of buſineſs, are ſo politic and ſecret, that a man who ſees it can hardly forbear laughing; but none is ſo ingenuous as to be content men ſhould do it, except the lord Halifax, who is ſometimes free enough with his companions to begin. I long ſince found that the deſign of ſending H. Sydney into Holland, was like the reſt of Sir William Temple's projects, a matter of great depth, and kept ſo cloſe, that not one of them would ſpeak to me of it; but this day was a ſe'nnight a gentleman that came to ſee me, took a letter out of his pocket, newly come from Holland, wherein the whole end of his negotiation is ſet out very plainly; which in ſhort is underſtood to be no more, than under the pretence of a guaranty to draw Holland and Spain into a league with England, which may help the prince of Orange with an occaſion of breaking the peace lately made; which I believe will take effect, if the French can be perſuaded to ſleep three months, and take no notice of it; if the Louveſteine party in Holland, and their aſſociates can be brought to believe the prince of Orange thinks of advancing no intereſt but the public good of the country; and if our houſe of commons can be ſo well ſatisfied with the management of the laſt buſineſs in Flanders, as to be willing to raiſe a new army under the ſame conduct, and to believe one that is ſo raiſed, will conduce to the defence of Flanders, as much as the laſt.

The laſt poſt brought me yours of July the 12th, and if you confeſs you did not know what to make of the Scotch buſineſs before you had my letters, I may conclude you were as *much in the dark* afterwards, for I could not make you underſtand that which I am ignorant of; and to ſay the truth, I am ſo; a great part of our modern prudence being to ſuppreſs informations of the truth, which I take to be as great a point of ſubtilty as that of one of our friends, who concealed a misfortune befallen him in the firſt acquaintance he had with a woman, until he was like to fall into pieces. Some think the great lords will be found to have incited the poor people, and then endeavoured to value themſelves at court upon the power they had of appeaſing them; and if that prove true, they may have the fortune that ordinarily accompanies thoſe that do too much or too little, and my lord Latherdale's boots will be a powerful means of diſcovering whether this be ſo or no.

Monſieur de Flamarin hath been received at Windſor as ſeriouſly, as if it had been believed the queen of Spain's marriage ſhould not hold, unleſs it were here approved, and the formalities that are uſual with men of buſineſs, having been obſerved to him, he is grown to think he is ſo. You know Monſieur de Barillon governs us (if he be not miſtaken) but he ſeems not to be ſo much pleaſed with that, as to find his embonpoint encreaſed by the moiſtneſs of our air, by frequently clapping his hands upon his thighs, ſhewing the delight he hath in the ſharpneſs of the ſound that teſtifies the plumpneſs and hardneſs of his fleſh; and certainly if this climate

climate did not nouriſh him better than any other, the hairs in his noſe, and nails of his fingers could not grow ſo faſt as to furniſh enough of the one to pull out, and of the other to cut off in all companies, which being done, he picks his ears with as good a grace as my lord La. The diſſolution of the tables at Windſor hath cauſed a great ſolitude there, which leaves the king few better entertainments than fiſhing, and unto ſome of our friends a good opportunity of making their court, which they improve. A man is come out of the North, who ſays, that Sir Thomas Gaſcoigne did treat with him to undertake to kill the king, ſent him to London to receive farther inſtructions, and tells his ſtory ſo diſcreetly, that every body believes him. He ſeems to involve Sir George Radcliffe of Northumberland, who had been formerly taxed by Oates. One Carril, a Suſſex gentleman, was laſt week ſeized and brought before Oates; he ſays he is a jeſuit, and the ſame man that by thoſe of the ſociety was called Blundell, of whom much hath been ſaid.

I dare not aſſure you that the gentleman, to whom the letters were addreſſed that I ſent to you, is as honeſt as he is underſtanding in buſineſs, becauſe I doubt men that are neceſſitous and live by their wits, may be apt to ſwerve from the beſt way, and I know ſome of his near relations to be very naught; but I can truly ſay, that in many years acquaintance I have not found him guilty of any ill thing, and I am ſure that a brother of his, having undertaken one that was abominable, he was ſo far from joining with him, that he diſcovered it to the perſon concerned in it, and as I believe thereby ſaved his life; and ſince that time ſo broke with his brother, as never to have looked upon him for this 13 or 14 years. I hear the duke of Monmouth is expected here this day. We poor people know nothing of the ſitting of the parliament, but are confident it will not be in Auguſt. I am, ſir,

Your moſt humble and faithful ſervant.

Sir, London, July 16.

You may with reaſon believe, I am little informed of what paſſeth in the world, that in my laſt letter I ſaid nothing of the parliament, which I make no doubt but others, that wrote to you the ſame day, ſaid was diſſolved. The truth is, the buſineſs being done at Hampton-Court, the news came not hither until the afternoon, and I having it two or three hours later than others, had already ſent my letter to the poſt, and could not recover it to make an addition, though of ſo great importance. This buſineſs is wholly imputed unto your two friends, and the other that ever joins with them; but the king finding it would not paſs at council, takes it wholly upon himſelf; tho' that, as well as ſome other things of the like nature, is thought not well to agree with what his majeſty was pleaſed to declare when he made the new council, to have no cabinet council, but next unto the advices of the parliament to follow their's in all

all things; and the world looking upon this as the work of the three above mentioned, they begin to be ſpoken of all over England in the ſame manner as Danby, and I fear may be impeached the next parliament upon this point, and the war in Scotland, as is ſaid, contrary to an act of parliament in the year 1641. The new parliament is to meet on the 7th of October: there will be as great canvaſſing for places as ever, people believing this parliament was diſſolved only in hopes of having one that would be leſs careful of the public intereſt. All men that wiſh well unto it, think it neceſſary to imploy all their induſtry in endeavouring to make it better in that ſenſe; and many believe they will effect it, though ſome probably will grow weary of the expences of elections, and the ways of preventing them as yet are not ſettled. The lord Halifax is made an Earl, under the ſame title. The lord Sunderland hath orders to prepare warrants to confer the ſame honour upon the lords Garret and Roberts.

The lord of Wiltſhire's marriage with Mrs. Coventry was the laſt week celebrated with great ſolemnity; and yeſterday the young couple came to the Marqueſs of Wincheſter's houſe, where there was a mighty feaſt, and much dancing and rejoicing. Langhorne was yeſterday hanged, profeſſing the ſame innocence that the jeſuits did, *and had the fortune as well as they, to be believed only by thoſe that are in the ſame crimes, or are concerned in having them concealed.* This day the council was extraordinarily aſſembled at Hampton-Court, to conſider of Wakeman's buſineſs, with its conſequences, notwithſtanding which he is to be tried to-morrow at the Old Baily.

The laſt week the king gave the Scotch lords a hearing againſt Latherdale; they had council on both ſides; Lockhart and Cunningham did undertake to prove a multitude of things done by Latherdale to have been againſt law; and Mackenzie, the king's advocate, being of counſel for him, could no ways diſprove them, but had recourſe unto the royal authority. The lords of Eſſex and Halifax were preſent, and both of them, but eſpecially the latter, did very much uphold the complainants, and, amongſt other things, told the king he ſaw the Scottiſh nation was more free than the Engliſh. Nevertheleſs anſwer was returned to them, that Latherdale had done nothing but what his majeſty had commanded, and which he would uphold by virtue of *his prerogative, which was above the law.* This, as is thought, will preſerve him from puniſhment, but his place of ſecretary will be given to the lord Magennis.

The duke of Monmouth, before he came from Scotland, had taken care that the Scotch priſoners ſhould be uſed with more humanity than they found amongſt their countrymen, and ſince his arrival here, orders are ſent to enlarge the indulgence granted unto the non-conformiſts in their meetings. The reſult of that buſineſs, as far as I underſtand it, is, a great many fools have been killed; their blood lies upon Latherdale; their folly and the cruelty ſhewed unto them hath gained a great deal of compaſſion for thoſe that remain of their party, which probably will perſuade thoſe in authority here to proceed more gently; and that which

is reaſonable in itſelf, will be rendered abſolutely neceſſary, if the parliament be ſuffered to ſit; for unleſs they prove to be of a temper very different from what is expected, they will ſuffer nothing like unto that which hath been. A buſineſs happened lately, which makes a great deal of noiſe. A certain captain under the ſhelter of the African company, committed ſeveral piracies upon the Engliſh company trading in Turky, and lately coming to town, five or ſix principal merchants that had received the damage, arreſted him, whereupon he complained to the commiſſioners of the Admiralty, who ſent for the merchants, and upon their refuſal to releaſe the captain, committed them. They addreſſed themſelves to one of the judges for a Habeas Corpus, who before he granted it, gave notice unto the commiſſioners, that the commitment of the merchants was againſt law, adviſed their releaſe before the Habeas Corpus was granted, which could not be denied, which the commiſſioners refuſed to do; but adviſing farther with lawyers, found not only that what they had done was unwarrantable, but that they were ſubject to actions for falſe impriſonment, upon which the injured perſons would obtain great damages; ſo that they found no better way than to releaſe the men, with a great many fair words: but they not being therewith ſatisfied, reſolved to ſue them at law, or bring the buſineſs into parliament. I write this two days before the going of the poſt, becauſe I am obliged to make a little journey this day, and ſhall not be back until he be gone. I am,

Your humble and faithful ſervant.

Sir, London, September $\frac{8}{18}$.

I have been out of town almoſt this month, ſo that my laſt letter to you was dated about that time. At my return I found men's minds more diſturbed than ever I remember them to have been, ſo that there is no extremity of diſorder to be imagined, which we might not probably have fallen into if the king had died, or which may not yet reaſonably be feared if he ſhould relapſe. All that is now to be told of news, is from the court, and muſt be known from thoſe that are more converſant there than I am. Though the parliament is like to ſignify little, people are buſy in bringing thoſe in, who are of their own mind; and the party that is moſt averſe to the court ſeems to prevail in the counties and great corporations, as the other doth in many of the ſmall boroughs; and upon the whole matter, many believe the houſe will be compoſed as the laſt was, or as ſome think, of a more harſh humour, the ſame men being ſomething ſharpened.

Your friend the lord Latherdale is more powerful than ever in Scotland, openly oppoſeth the duke of Monmouth, and hath ſo far prevailed, as to render the indulgences obtained by him utterly ineffectual: but leſt his power there ſhould not be ſufficient to protect him here,

if

if the parliament meets, he doth not diſdain a pardon, and as I hear, one is preparing for him. I know not how much your friends and mine do grow at court, nor whether the gains they can expect to make there, will countervail what they loſe in the nation; but I do think myſelf aſſured, that two of them †, who were generally as well eſteemed as any men I know, are now as ill ſpoken of as any; and the aſperity one of them ſhewed againſt the papiſts, is moſt bitterly retorted upon him. If the parliament ſits, I ſhall not be ſo ignorant as I am of what paſſeth, and I will with the ſame care that I did the laſt time, let you know what I hear, and, as far as I dare truſt letters ſent by the poſt, what I think. I am,

Your moſt humble and faithful ſervant.

Sir, London, October 29.

It is indeed a good while ſince I heard from you, and I have been leſs diligent in writing to you than formerly, partly becauſe I doubted, whether my letters were any ways acceptable unto you, and partly becauſe one that is far from court knows nothing worth relating, unleſs it be in parliament-time, when all that is done is made public, or at the leaſt comes to the knowledge of thoſe that have any acquaintance. I am not able to give ſo much as a gueſs, whether the parliament will ſit the 26th of January or not, and though I think myſelf in all reſpects well choſen, am uncertain whether I ſhall be of it, or not, there being a double return; and nothing can be aſſured, until the queſtion ariſing thereupon be determined, unleſs it be that as I and my principles are out of faſhion, my inclinations going one way, my friendſhip and alliance with thoſe that are like to give occaſion for the greateſt conteſts drawing another, I ſhall be equally diſliked and ſuſpected by both parties, and thereby become the moſt inconſiderable member of the houſe. But however matters go, if the houſe doth ſit, and you care to know what I either hear or think, I ſo far abhor the excuſe that is worn out by having been ſo often alleged by liars and fools, as never to pretend to much buſineſs as a reaſon for my omiſſion; and I think I ſhall make none.

I have often heard of monſieur D'Avaux's behaviour in Holland, but did not need any information as to matter of fact, to be aſſured he would oppoſe it; to believe he would ſucceed, and indeed with ſome confidence to conclude, that our diſappointment in that caſe is much more for our advantage than what we ſought. And as it is ſaid in religion, that nothing is more terrible than the return of ill-conceived prayers, nothing is more to be feared in politicks than the ſucceſs of unreaſonable and ill-grounded counſels. And though the "propoſition

† The earls of Halifax and Eſſex.

"that

"that was made being rejected, will certainly raiſe the party in Hol-
"land that is leaſt for the prince of Orange, and caſt it into a de-
"pendence upon France; that is leſs mortal unto us than a league,
"that would certainly have produced a rupture of the peace, renewed
"the war all over Europe, expoſed Flanders to be loſt the firſt year
"(which this muſt have done;" it being as certain, the aſſiſtances expected from hence would have failed, as that it hath not in itſelf that which is neceſſary for its defence.) This, and a great deal more upon the like ſubject was told the lord Sunderland, and Mr. H. Sydney before he went; but ſir William, who was taken for the oracle of thoſe parts, aſſured them, there was no ſuch thing as a party in Holland inclined to oppoſe the prince of Orange; that all was ſubmitted unto his authority, and united in deſiring ſuch an alliance with us; that it would certainly be accepted as ſoon as offered, and that the French which had made the peace for fear of us, would by the ſame reaſon more exactly keep it, when it was ſeen that we were joined with them. I ſhould think him bewitched, that doth not ſee there is as many falſities, as to matter of fact, and miſtakes in judgment in this matter, as there are words; but I ſee no intention of receding from ſuch counſels, nor remedy for the miſchiefs they bring upon us. *It was alſo believed this buſineſs would have been liked by the parliament, but I am as confident, as of this that is paſſed, that if the parliament had met, neither this nor any thing that is like to engage us in any war would have been endured by them, nor that they would have given a penny towards it.*

You will certainly have heard of a precious *plot*, carried on by a man of four names (who had been almoſt as many times in the pillory for perjury, and ſuch other pieces of wit) whereby the preſbyterians ſhould be brought under the ſuſpicion of having one now on foot, which ſhould have given occaſion of bailing the lords in the Tower; but he having had the ill luck to miſtake Manſell for Mansfield, carried a bundle of letters, he had forged, to a wrong place; and bringing ſome officers of the cuſtoms to ſearch Manſell's lodgings for Flanders lace, and other prohibited commodities, was feign to find them himſelf; but the miſtake of the ſuperſcription, which was to Mansfield, the ſeals not opened, and other circumſtances making the fraud to appear, the whole matter vaniſhed. About the ſame time another deſign of equal prudence and integrity was carried on to ſuborn Dugdale to renounce his teſtimony concerning the popiſh plot; but he conſulted with ſome friends, placed two good witneſſes under the hanging to teſtify what the woman ſaid, who treated with him; and when he ſaw a fit time, diſcovered all to the council, ſo that that plot alſo is enervated. We hear of ſeveral other perſons that would more fully diſcover the popiſh plot; but as things ſtand, none dares appear. Serjeant, long ſpoken of, hath depoſed what he knows, and, as I hear, delivered it into ſafe hands ſigned and ſealed. H. Sydney is ſaid to

have made a very ill diſcourſe to him at the Hague, and if it come before the parliament, will probably have evil effects. The duke went towards Scotland on Monday, full of various imaginations, as is ſaid, but ſome underſtanding men think he hath nothing, that ought more to pleaſe him in his journey than good weather. There is a paper caſt about the town of the earl of Danby's caſe, which makes a very ill one of it; and amongſt other things to prove he was not of the French faction, he ſays, he needs allege only the French ambaſſador's diſcourſes of him at Madame Mazarin's; this new logic of proving a thing by a propoſition, either falſe, or as uncertain as itſelf, being looked upon as the invention of that excellent wit.

I am glad to hear of the dulneſs you obſerve in your neighbourhood, and wiſh you could find means to increaſe it, believing that nothing elſe can keep them from taking advantage of our follies, as I am ſure the league would have done, if it had been accepted in Holland. H. Sydney arrived here yeſterday. The duke's firſt lodging was at Hatfield; the earl of Saliſbury being at Quickſhot, ſix miles off, ſent his ſon to excuſe his not coming to wait upon his royal highneſs, for that he had been let blood five days before. No proviſions for his entertainment appeared in the houſe, but two does upon the table, one barrel of ſmall beer in the cellar, and a pile of faggots. The duke's ſervants ſent into the town to buy all things neceſſary, even to candles, and to borrow candleſticks. The gentlemen of the neighbourhood were ſo charitable as to take the lord of Oſſory and many others to their houſes, where they were well entertained. The duke being unwilling to be burthenſome to a poor lord, appointed ſir J. Worden to pay for what he had, and the ſteward took money for the faggots, and eight ſhillings for the barrel of beer. The earl of Orrery is dead, and the lord of Ormond hath made his ſon Arran, major-general in his ſtead; that if the French invade that kingdom, the army commanded by himſelf and his two ſons may be fit to oppoſe them. I am,

Your moſt humble and faithful ſervant.

Sir, London, October 31.

We are in a buſy time, and how empty ſoever any man's head hath formerly been, the variety of reports concerning things in agitation do ſo fill it, at leaſt with an imagination of contributing ſomething to other men's inventions, that they have little leiſure to do any thing elſe. This obligeth me to write in haſte, and without any other conſideration than of the agreement made between you and me, to ſet down nothing but truth; to tell you in ſhort, that the firſt day of the parliament the lord Ruſſel named Mr. Williams to be ſpeaker, who being approved of without contradiction, was with little ceremony, and no excuſe made for himſelf, aſſented unto by the king. The two next days were ſpent in

ſwearing the members of the houſe of commons, and putting them to the teſt. On Monday the five and twentieth, the committees were named, and a multitude of petitions concerning elections preſented, and referred to that of privileges and elections.

On Tueſday the 26th, Dangerfield was brought to the bar of the houſe of commons, where he did declare himſelf poſitively, that the duke had offered him a great ſum of money to kill the king. He alſo ſaid, that the lord privy ſeal, Peterborough and ſir Robert Payton, were privy unto and contrivers of the *Meal-Tub-Plot*. The ſame day the lord Ruſſel, repreſenting the miſchiefs and dangers that threaten our nation, ſhewed the duke to be the centre of all. Sir H. Capell ſeconded him. Sir Francis Winnington made a recapitulation of all that had been done ſince the laſt parliament to the prejudice of the nation, in favour of popery, and imputed the greateſt part thereof unto the ſame cauſe; whereupon a vote was paſſed by the houſe *nemine contradicente*, that the houſe ſhould proceed inceſſantly upon the further diſcovery of the plot, and the means of preventing a popiſh ſucceſſor.

Wedneſday the 27th, Dangerfield was brought into the ſpeaker's chamber, and being put to his oath by a juſtice of the peace, did depoſe what he had formerly ſaid. Mr. Hyde only and ſir Lionel Jenkins did ſpeak in favour of the duke; and the latter having the ill luck to ſay, he did in his heart believe his royal highneſs was as good a ſubject as any is in England, one, that was not far off, whiſper'd, "*and as good a proteſtant.*"

The ſame day complaint being made in the houſe of commons of thoſe who had obſtructed petitions, and ſome members ſeverely anſwering ſuch as had been guilty thereof, ſir Robert Howard deſired the houſe to proceed cautiouſly therein, his majeſty having by proclamation declared ſuch petitions to be contrary to law. Notwithſtanding which admonition, the houſe did vote *nemine contradicente*, That it was, and had ever been the right of the ſubjects of England to petition his majeſty for the meeting and ſitting of parliaments, until all petitions were heard and grievances redreſſed. In the ſecond place they appointed a committee to examine who had been guilty of obſtructing ſuch petitions, and therein betraying their country. There are ſix or ſeven members of the houſe of commons ſaid to have declared themſelves deteſters and abhorrers of ſuch petitions, who, as is thought, will be turned out of the houſe without other ceremony.

The ſame day ſir Robert Payton was ſuſpended the houſe.

An American jew, lately interpreter to the laſt Portugal embaſſador that was here, did teſtify before a committee of the houſe of lords, that he had been ſuborned by the ſaid embaſſador to kill the earl of Shafteſbury, by caſting hand-granadoes into his coach as he ſhould be going to, or coming from Chelſea; and to find others to kill Arnold, Oates and Bedloe. He mention'd this at firſt in the phrenſy of a fever, and finding that he had ſo diſcover'd himſelf, found no better way of ſecurity than to declare

the whole to the earl of Clarendon the firſt day of May laſt, and delivered unto him the whole matter in writing. The earl doth neither deny the receipt of the papers, nor give any reaſon why he concealed it.

Many terrible accuſations come in againſt Angleſey.

The lord Halifax brought in a bill for the ſpeedy diſcovery and conviction of papiſts, and eaſe of nonconformiſts, but ſo contrived, *that both parties are almoſt equally incenſed againſt him for it.* The houſe of lords was on Thurſday turned into a committee, and, as I hear, will be ſo every day, to conſider of it, and try whether it can be ſo mended, as to be uſeful unto the ends intended. I know not whether that can be done or no; *but I could have wiſhed, that intending to oblige above a million of men, that go under a name of nonconformiſts, he had been pleaſed to conſult with one of that number, concerning the ways of doing it.*

On Friday twenty-nine lords and commoners were invited by the lord mayor to his feaſt, and after dinner the duke of Monmouth came to them. In his return he was accompanied by a great number of people, that ran to ſee him and eſquire Thynne. It was obſerved that having formerly had a bar in his arms upon his coach, it was then wiped out.

October 30, Dugdale did declare unto the houſe of commons, that Ewers the jeſuit told him, there had been a conteſt between the duke of York and Coleman; he complaining that the duke put him upon buſineſſes that would bring him to be hanged, the duke told him, he would ſecure his life, if he would hold his peace: Coleman anſwered, he could do ſo for the future; but he had already confeſſed ſo much unto his friend ſir Edmond Godfrey, that it was in his power to diſcover him and all his buſineſs; whereupon the duke replied, that ought not to trouble him, for orders ſhould be taken to keep Godfrey from doing any hurt, *which in a few days was performed by his death.* Cann of Briſtol, and Withins Steward of Weſtminſter, are put out of the houſe of commons for diſcountenancing and oppoſing petitioning.

I believe to-morrow will be a great day in the houſe of commons, in as much as it relates to the duke; he is ſaid to be arrived in Scotland, but no certain news is come of him, ſince he was ſeen off from Newcaſtle on Monday laſt. If the orders ſent into Flanders from Spain concerning repriſals upon the duke of Brandenburgh by ſea or land be executed (as is ſaid) by ſending two or three thouſand horſe into the Pais de Cleves & de Juliers, I look upon the peace as broken; for the French will certainly defend it, or do the like in Flanders. I am,

Your moſt humble and faithful ſervant.

The lord Ogle is dead.

The length of this letter will perſuade you I am not in the haſte I mentioned; but abundance of matter hath made a letter of ſix pages, when I intended but one.

Sir, London, July 26, 1682.

I had not failed of ſeeing you, when you were here, if it could have been compaſſed by induſtry, for I was more than once at your old lodging in King-ſtreet, and the new one which I then heard you had taken near St. James's; but courtiers are always in motion, ſo that to meet with them is as hard as to ſhoot flying, and though my intention was to have done it, I found that ſkill was wanting. I was in that enquiry guided by my own inclinations unto you, and the knowledge of obligations received from you, both of which join in perſuading me to wiſh you in a way more ſuitable unto your humour, than that which engageth you in troubleſome removes to follow a prince, [Lewis XIV.] who perhaps doth not always know his own mind, or that thinks it a part of his greatneſs to vex as many as he can. Thoſe that he ſent lately hither, ſpake of nothing ſo much as * *la gloire de leur Maitre*; though perhaps there were more

[* *La gloire de leur maitre*]

Pour moi, qui ſur ton nom déja brulant d'écrire,
Sens au bout de ma plume expirer la ſatire,
Je n'oſe de mes vers vanter ici le prix.
Toutefois, ſi quelcun de mes foibles ecrits
Des ans injurieux peut éviter l'outrage,
Peut être pour *ta gloire* aura-t-il ſon uſage.
Et comme tes exploits, étonnant les lecteurs,
Seront à peine crûs ſur la foi des auteurs;
Si quelque eſprit malin les veut traiter de fables,
On dira quelque jour pour les rendre croïables;
Boileau, qui dans ſes vers *pleins de ſincérité*,
Jadis à tout ſon ſiécle a dit *la vérité*;
Qui mit à tout blâmer ſon étude et ſa gloire
A pourtant de ce Roi parlé comme l'hiſtoire.

Epitre 1, au Roy.

The writer of the long though curious note on this paſſage, among other things obſerves, "Notre Poëte revint de la cour comblé d'honneurs et *de biens*. Cependant il a dit pluſieurs fois, *que la première réfléxion que lui inſpira ſa nouvelle fortune, fut un ſentiment de triſteſſe, enviſageant la perte de ſa liberté, comme une ſuite inevitable des bien faits dont il venoit d'être honoré.*" But away, Reader, from the time-ſerving, penſioned, yet ingenious *Boileau*, to honeſt *Andrew Marvell*, and the matchleſs *John Milton*.

Whilſt in truth's mirror this good ſcene he ſpy'd
Enter'd a Dame bedeck'd with ſpotted pride,
Fair *Flower-de-luce*; within an azure field,
Her left hand bears the ancient gallic ſhield,
By her uſurp'd; her right a bloody ſword,
Inſcrib'd *Leviathan*, our ſovereign lord;
Her tow'ry front a fiery meteor bears,
An exhalation bred of blood and tears.
Around her *Jove*'s leud rav'nous curs complain,
Pale death, luſt, tortures, fill her pompous train.

State poems by *Andrew Marvell*.

He aſk'd thee, haſt thou ſeen my ſervant *Job?*
Famous he was in heaven, on earth leſs known;
Where glory is falſe glory, attributed
To things not glorious, men not worthy of fame,
They err who count it glorious to ſubdue

more of true glory in the ſteadineſs of a little good common ſenſe, than in all the vanities and whimſies their heads are filled with. But if you find ſome inconvenience in being obliged in a degree to comply with them where you are, I doubt whether you would have been exempted from the like here, *for even we that are afar off from that fire, are ſo much ſcorched by it, that we expect not trouble but ruin from it.* I am, ſir,

Your moſt humble and faithful ſervant.

Sir, Paris, November $\frac{14}{24}$, 1682*.

The time that I have remained here beyond my expectation, might have given you leiſure to let me know what ſucceſs you had in the buſineſs you were pleaſed to ſpeak to me of, but the ſickneſs, which as I hear you fell into ſoon after your arrival, may have detained you, till you had reaſon to believe I was removed into a country far from this; but if your recovery give you opportunity of making an eſſay, I deſire you either to give your letter, by which I may know it, to my lady Sunderland, to be ſent unto me, or direct it to monſieur du Moulins, who is with your nephew here, to be ſent after me. I have bought a horſe of Mr. Porter, in which I think he hath dealt civilly with me, as he ſays, upon your conſideration, which I have reaſon to believe, and am very willing to acknowledge, as from a perſon from whom I receive much greater obligations, and to whom I ſhall be ever ready to render all that agrees with the title of

Your moſt humble and obedient ſervant.

By conqueſt far and wide, to over-run
Large countries, and in fields great battles win,
Great cities by aſſault: What do theſe worthies,
But rob and ſpoil, burn, ſlaughter, and enſlave
Peaceable nations, neighbouring, or remote,
Made captive, yet deſerving freedom more
Then thoſe their conquerors, *who leave behind*
Nothing but ruin whereſoe'er they rove,
And all the flouriſhing works of peace deſtroy.
Then ſwell with pride, and muſt be titl'd Gods,
Great benefactors of mankind, deliverers,
Worſhip't with temple, prieſt and ſacrifice;
One is the ſon of *Jove*, of *Mars* the other,
Till conquerour death diſcover them ſcarce men,
Rowling in brutiſh vices, and deform'd,
Violent or ſhameful death their due reward.
But if there be in glory aught of good,
It may by means far different be attain'd,
Without ambition, war, or violence;
By DEEDS OF PEACE, *by wiſdom eminent*
By patience, temperance.——

Paradiſe Regain'd.

* It is probable, that this and the following letter were written in the year 1676.

Sir, Nerac, December $\frac{18}{28}$, 1682.

I received yeſterday in one and the ſame packet three letters from you, of which one had paſſed through Paris whilſt I was there, and that would have ſpared me a journey of four hundred leagues, if I had then received it. This would have been a convenience unto me; but my obligation unto you is the ſame, and I ſo far acknowledge it to be the greateſt that I have in a long time received from any man, as not to value the leave you have obtained for me to return into my country after ſo long an abſence, at a lower rate *than the ſaving of my life.* You having proceeded thus far, I will, without any ſcruple, put myſelf entirely upon *the king's word*; and deſire you only to obtain *a paſs* to ſignify it, and that his majeſty is pleaſed to ſend for me; ſo that the officers of the ports or other places may not ſtop me, as they will be apt to do as ſoon as they know my name, if I have not that for my protection. You took that which had paſſed between you and me ſo rightly, that I have nothing to add unto it. I have no other buſineſs than what ſolely concerns my perſon and family. I deſire not to be a day in England unknown to the king, or his miniſters; and will loſe no time in waiting upon the ſecretary, as ſoon as I can after my arrival †. I think it no ways reaſonable that I ſhould ſtay in England, if the king do not ſee I may do it without any ſhadow or poſſibility of prejudice unto him; and unleſs I can ſatisfy him in that point, I deſire no more than to return on this ſide the ſeas after the three months, where I intend to finiſh my days, without thinking any more of living in England. You ſee my thoughts ſimply expoſed; I beſeech you to accompliſh the work you have ſo well begun. Send your anſwer to monſieur du Moulins, and believe no man in the world can be more obliged unto you, than

Your moſt humble and obedient ſervant.

† He arrived about Auguſt or September 1676. See "The apology in the day of his "death."

THE TRIAL OF A. SYDNEY

THE ARRAIGNMENT, TRIAL, AND CONDEMNATION OF ALGERNON SYDNEY, FOR HIGH TREASON FOR CONSPIRING THE DEATH OF THE KING, AND INTENDING TO RAISE A REBELLION IN THIS KINGDOM.

BEFORE THE RIGHT HON. SIR GEORGE JEFFREYS, KNIGHT AND BARONET, LORD CHIEF JUSTICE OF ENGLAND; AT HIS MAJESTY'S COURT OF KING'S BENCH AT WESTMINSTER, ON THE SEVENTH, TWENTY FIRST, AND TWENTY SEVENTH OF NOVEMBER, MDCLXXXIII

THE ARRAIGNMENT, NOV. VII

Algernon Sydney Eſquire by Habeas Corpus brought up to the bar of the court of king's-bench; and the clerk of the crown having read the return, *Mr. Attorney-General informed* the court, there was an indictment againſt the priſoner, and prayed he might be charged with it.

Clerk of the Crown. Algernon Sydney, hold up thy hand [which he did.]

Midd. ff. The jurors for our lord the king upon their oath do preſent, that *Algernon Sydney*, late of the pariſh of *St. Martin in the Fields*, in the county of *Middleſex*, Eſquire, as a falſe traitor againſt the moſt illuſtrious, moſt excellent prince, our lord *Charles* the Second, by the grace of God king of *England*, *Scotland*, *France*, and *Ireland*, and his natural lord; not having the fear of God in his heart, nor weighing the duty of his allegiance, but moved and ſeduced by the inſtigation of the devil, utterly withdrawing the cordial love, and true, due, and natural obedience which a true and faithful ſubject of our ſaid lord the king ſhould bear towards him the ſaid lord the king, and of right is bound to bear; contriving, and with all his ſtrength intending, to diſturb the peace and common tranquillity of this kingdom of *England*, and to ſtir up and move war and rebellion againſt the ſaid lord the king, and to ſubvert the government of the ſaid lord the king, in this kingdom of *England*, and to depoſe and deprive the ſaid lord the king, and to ſubvert the government of the ſaid lord the king from the title, honour, and regal name, of the imperial crown of his kingdom of *England*, and to bring and put the ſaid lord the king to death and final deſtruction, the thirtieth day of June, in the five and thirtieth year of the reign of our lord king *Charles* the Second, now king of *England*, etc. and divers other days and times, as well before, as after, at the pariſh of *St. Giles in the Fields*, in the county of *Middleſex*, maliciouſly and traiterouſly,

with divers other traitors to the jurors aforeſaid unknown, did conſpire, compaſs, imagine, and intend to deprive and caſt down the ſaid lord the king, his ſupreme natural lord; not only from the regal ſtate, title, power, and rule of his kingdom of *England*, but alſo to kill, and bring and put to death, the ſame lord the king, and to change, alter, and utterly ſubvert, the ancient government of this his kingdom of *England*, and to cauſe and procure a miſerable ſlaughter among the ſubjects of the ſaid lord the king through his whole kingdom of *England*, and to move and ſtir up an inſurrection and rebellion againſt the ſaid lord the king, within this kingdom of *England*. And to fulfil and perfect thoſe his moſt horrid, wicked, and diabolical treaſons, and traiterous compaſſings, imaginations, and purpoſes, the ſame *Algernon Sydney*, as a falſe traitor, then and there, and divers other days and times as well before as after, maliciouſly, traiterouſly, and adviſedly, did aſſemble himſelf, meet and conſult with the aforeſaid other traitors to the jurors aforeſaid unknown, and with the ſame traitors did treat of, and for, thoſe his treaſons and traiterous compaſſings, imaginations, and purpoſes, to be executed and fulfilled. And that the aforeſaid *Algernon Sydney*, as a falſe traitor, maliciouſly, traiterouſly, and adviſedly, then and there, and divers other days and times as well before as after, upon himſelf did aſſume, and to the aforeſaid other traitors did promiſe, that he would be aiding and aſſiſting in the execution of their treaſons and traiterous compaſſings, imaginations, and purpoſes aforeſaid. And to fulfil, perfect, and reduce to effect, thoſe their moſt horrid treaſons and traiterous compaſſings, imaginations, and purpoſes aforeſaid, the ſame *Algernon Sydney*, as a falſe traitor, then and there, falſely, maliciouſly, adviſedly, and traiterouſly did ſend one *Aaron Smith into Scotland*, to invite, procure, and incite divers evil-diſpoſed ſubjects of our ſaid lord the king, of his kingdom of *Scotland*, to come into this kingdom of *England*, to adviſe and conſult with the aforeſaid *Algernon Sydney*, and the aforeſaid other unknown traitors in this kingdom of *England*, of aid and aſſiſtance to be expected and ſupplied from the kingdom of *Scotland* to fulfil, perfect, and reduce to effect, thoſe their moſt wicked, horrid, and traiterous treaſons aforeſaid. And that the aforeſaid *Algernon Sydney*, to fulfil and perfect thoſe moſt wicked, horrid, and deviliſh treaſons, and traiterous compaſſings, imaginations, and purpoſes aforeſaid, and to perſuade the ſubjects of the ſaid lord the king of this kingdom of *England*, that it is lawful to make and ſtir up an inſurrection and rebellion againſt the ſaid lord the king that now is, the ſaid thirtieth day of June, in the five and thirtieth year of the reign of the ſaid lord the king that now is, at the pariſh of *St. Giles in the Fields* in the county of *Middleſex*, falſely, unlawfully, wickedly, ſeditiouſly, and traiterouſly, did make, compoſe, and write, and cauſed to be made, compoſed, and written, a certain falſe, ſeditious and traiterous libel, in which ſaid falſe, ſeditious and traiterous libel among other things is contained as followeth in theſe Engliſh words, viz. "The power origi- "nally in the people of *England* is delegated unto the parliament. He "[the moſt ſerene lord, *Charles* the Second now king of *England*, "meaning] is ſubject unto the law of God, as he is a man; to the "people

" people that makes him a king, inaſmuch as he is a king: the law ſets " a meaſure unto that ſubjection, and the parliament judges of the " particular caſes thereupon ariſing. He muſt be content to ſubmit his " intereſt unto theirs, ſince he is no more than any one of them in any " other reſpect than that he is, by the conſent of all, raiſed above any " other. If he doth not like this condition, he may renounce the crown; " but if he receive it upon that condition (as all magiſtrates do the power " they receive) and ſwear to perform it, he muſt expect that the per- " formance will be exacted, or revenge taken by thoſe that he hath " betrayed." And that in another place in the ſaid falſe, ſeditious, and traiterous libel, among other things, theſe falſe, ſeditious, and traiterous Engliſh ſentences are contained (that is to ſay) " We may therefore change " or take away kings, without breaking any yoke; or that is made a " yoke which ought not to be one: the injury is therefore in making " or impoſing, and there can be none in breaking it," Againſt the duty of his allegiance, againſt the peace of the ſaid now lord the king, his crown and dignity, etc. And againſt the form of the ſtatutes in this caſe made and provided, etc.

How ſayeſt thou, art thou guilty of this high treaſon whereof thou ſtandeſt indicted, or not guilty?

Col. Sydney. My lord, I find here an heap of crimes put together, diſtinct in nature one from another, and diſtinguiſhed by law; and I do conceive, my lord, that the indictment itſelf is thereupon void, and I cannot be impeached upon it.

Lord Chief Juſtice. We are not to admit any diſcourſes till you anſwer the queſtion, whether you be guilty, or not guilty.

Mr. Att. Gen. [Sir *Robert Sawyer*, Knt.] If he will demur, my lord, we will give him leave.

Col. Sydney. I preſume your lordſhip will direct me, for I am an ignorant man in matters of this kind, I may eaſily be ſurpriſed in it, I never was at a trial in my life of any body, and never read a law-book.

L. C. J. Becauſe no priſoner under your circumſtances is to have counſel, but in ſpecial caſes to be aſſigned in matters of law, the court is bound by their oaths and duty of their places, that they ſhall not ſee any wrong done to you: but the buſineſs we are to tell you now is, You are to plead guilty, or not guilty, or demur, which is a confeſſion in point of law.

Col. Syd. Under favour, my lord, there may be indictments that are erroneous; and if they are erroneous and vicious, they are null, and ought not to be anſwered to.

Mr. Juſt. Wythins. If you pleaſe to demur to it, you ſhall have liberty to make any exceptions.

Col. Sydney. I do not demur, it is only exceptions. I think in matters of life, a man may give in his exceptions to the bill, and plead not guilty afterwards. I am ſure, in ſir Henry Vane's caſe the court ſaid it, and offered him to do it; that which, under favour, I hope to do.

L. C. J. You muſt plead or demur.

Col. Sydney. My lord, if I put in exceptions to the bill, I do not plead till thoſe exceptions are over-ruled. This was in the caſe of ſir Henry Vane.

L. C. J. Sir, I muſt tell you, you muſt either plead, or demur.

Col. Sydney. My lord, There are in this indictment ſome treaſons, or reputed treaſons, that may come within the ſtatute of the 13th of this king, which is limited by time; the proſecution muſt be in ſix months, and the indictment within three. Now, my lord, if this buſineſs that is mentioned be above ſix months before my commitment, or above three before the indictment, I think, under favour, I ought not to anſwer to theſe matters.

L. C. J. You are miſtaken in the law. That will be ſaved when the fact comes to appear. If they allege the thing to be at a time, which according to that allegation would maintain the indictment; if upon the trial it appear otherwiſe, the court is bound to take notice of it when you come to your trial: but we are not bound to examine that before you have pleaded.

Col. Sydney. My lord, every body will acknowledge, that there have been, or may be, vicious indictments. Now if I plead to an erroneous indictment, and am acquitted, I may be indicted again. Bills of attainder have been upon errors in original indictments, as that of the duke of Somerſet. Now if there be here ſeveral things diſtinct in nature, and diſtinguiſhed by law, that are put together, it is impoſſible to make a poſitive anſwer to any one. If any one ſhould tell me, that I by myſelf, or by others, by ſword or by piſtol, conſpired to kill the king, I can ſay, I did it, or I did it not. If any one ſay, I have levied war, and by ſeveral acts undertake to prove I have done it, I can ſay I have done it, or I have not. But here I do not find any thing ſpecified, nor can tell upon what ſtatute I am indicted. I pray, I may ſee the record.

L. C. J. That we cannot do. You ſhall hear it read again if you will. If you think it to be a void indictment, demur to it if you will.

Col. Sydney. My lord, I deſire you to accept of this [ſhewing a parchment.]

L. C. J. What is it? Put in what plea you ſhall be adviſed; but if you put in a ſpecial plea, and Mr. Attorney demurs, you may have judgment of death, and by that you wave the fact.

Col. Sydney. I cannot make any objection to the bill after I have pleaded not guilty; for I accept the bill thereby to be good.

L. C. J. If you can aſſign any matter of law, do. But otherwiſe, what a kind of thing would it be? All criminals would ſay in all caſes, I doubt whether the bill be good or bad, and after I have thus conſidered of it, I will plead. You are miſ-informed; and this the court tells you, as a duty incumbent on them.

Mr. Juſt. Wythins. If you demur, and ſhew what your cauſes are, we will aſſign you counſel.

Col. Sydney. I desire you would not try me, and make me to run on dark and slippery places. I do not see my way.

L. C. J. Do not apprehend yourself to be so, as if the court would run you on any inconvenience. But they are bound to see the methods of justice preserved; they are those that you, and all the king's subjects, are bound to conform to. If any one of us were in the same condition, we must observe the same methods of law.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. Then pray, my lord, will you tell me this, Is it true, that a man, how vicious soever an indictment is, must answer or demur to it?

L. C. J. He must either answer or demur.

Col. Sydney. Are there no exceptions to be admitted?

L. C. J. None. And if you do not do the one, or the other, judgment passes as if you had pleaded.

Col. Sydney. This is a plea.

Mr. Just. Wythins. Will you stand by it? Consider yourself, and your life. If you put in that plea, and Mr. Attorney demurs, if your plea be not good, your life is gone.

Col. Sydney. Pray, my lord, give me a day to consider of it.

L. C. J. No. We must not introduce new methods or forms for any body. The same case that is with you, may be with other people.

Col. Sydney. My lord, I do not pretend to any thing but what is law, and due to every man upon English ground. I would be very sorry to do that which may be hurtful.

L. C. J. You have the rule of the court. You must do one or the other. Call him to it.

Col. Sydney. I desire this may be read [shewing the same parchment.]

L. C. J. It shall not be read, unless you put it in as a plea.

Mr. Att. Gen. I must do my duty: Mr. Williams exceeds his liberty, he informs the prisoner of several things.

Mr. Williams. I only said, if it was a plea, put it in. Mr. Attorney can hear all I say. [Whereupon Mr. Williams was reproved by the Lord Chief Justice.]

Col. Sydney. I only give it as exceptions to the bill.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. If any one should ask me any particular thing, I could tell how to answer.

L. C. J. He asks you a particular thing. It is the duty of the court to pronounce judgment, if you do not plead.

Col. Sydney. Why then, if you drive me upon it, I must plead.

L. C. J. I am sure there is no gentleman of the long robe would put any such thing into your head. There was never any such thing done in capital matters.

Col. Sydney. My lord, I am there indicted for conspiring the death of the king; I have not conspired the death of the king. I am there indicted

for levying of war, I have not done that. I am indicted for having invited in others, of another nation, I have not done that neither. I am there indicted to have written a ſeditious libel to ſtir up the ſpirits of the people againſt the king, I have not written any thing to ſtir up the people againſt the king—

L. C. J. We are not to hear all this. You muſt plead as other people; or elſe, in plain Engliſh, we will pronounce ſentence. We ought to give all men ſatisfaction that will be ſatisfied; but if they will not be directed, we cannot help that.

Col. Sydney. My lord, if you put me upon this inevitable neceſſity, it lies upon you; I muſt plead then.

Clerk of the Crown. Art thou guilty, or not guilty?

Col. Sydney. Not guilty.

Clerk of the Crown. Culprit, how wilt thou be tried?

Col. Sydney. By God and my country.

Clerk of the Crown. God ſend thee a good deliverance.

L. C. J. If you be not guilty, I pray God you may eſcape.

Mr. Att. Gen. My lord, will you pleaſe to appoint a day for his trial, that he may take notice of it now?

L. C. J. What time would you have?

Mr. Att. Gen. A week's time, do you think that will be enough?

Col. Sydney. No: pray, my lord, give me a fortnight's time.

Mr. Att. Gen. I will not oppoſe it.

Col. Sydney. In the next place I deſire a copy of the indictment.

L. C. J. We cannot grant it by law.

Col. Sydney. I deſire you would pleaſe to give me counſel.

L. C. J. We cannot do it. If you aſſign us any particular point of law, if the court think it ſuch a point as may be worth the debating, you ſhall have counſel; but if you aſk for counſel for no other reaſon than becauſe you aſk it, we muſt not grant it. The court is bound to ſee that nothing be done againſt you, but what is according to the rules of law. I would be very loth to draw the guilt of any man's blood upon me.

Col. Sydney. Has not every body counſel?

L. C. J. No.

Col. Sydney. I have ſeveral points of law.

L. C. J. Tell us them.

Col. Sydney. My lord, will you oblige me, that am an ignorant man, and confeſs myſelf ſo, upon hearing my indictments for things I know not of, a long thing, preſently to raiſe a point of law?

L. C. J. It is not we oblige you, Mr. Sydney; it is the law obliges you. We are the miniſters of the law. It is the law ſays, we are not to allow you counſel without making your objections, that the court may underſtand whether it be fit; it is the law ſays we may not allow you a copy of the indictment: Therefore do not go away and ſay that we as men ſitting here impoſe upon you: we ſit here only to adminiſter the juſtice of the nation.

Mr. Juſt. Wythins. Sir, you will have a fortnight's time to conſider of objections in law.

L. C. J. If you will have it read, you ſhall. Thoſe things that you may have by law, God forbid but you ſhould have the benefit of them.

Col. Sydney. I deſire, my lord, to hear it read again.

Mr. Att. Gen. Would you have it read in latin?

Col. Sydney. Yes, if you pleaſe, I do underſtand a little latin.

[Then the indictment was read in latin.]

Col. Sydney. What is that ſtatute?

L. C. J. When you come to your trial, Mr. Attorney will tell you what ſtatute he goes upon. And he may give in evidence any act of parliament that comprehends treaſon.

Col. Sydney. Methinks he ſhould ſay what ſtatute he goes upon.

Mr. Juſt. Wythins. Sir, would you have a new indictment for you?

L. C. J. He muſt take notice of his trial this day fortnight. Lieutenant of the Tower, you may take the priſoner back again.

Then the lieutenant of the Tower took away his priſoner.

THE TRIAL NOV. XXI.

Algernon Sydney, Eſquire, was brought to the bar of the court of King's Bench by Habeas corpus, and proclamation for information being made, he deſired pen, ink and paper, which were granted him. And he alſo deſired, that two perſons, viz. Mr. Wynn and Mr. Gibbs, might write for him; which was alſo allowed by the court.

Col. Sydney. My lord, when I was laſt here before your lordſhip, I did deſire a copy of my indictment, and I thought the law did allow it me. But being in an hurry, carried firſt to a tavern, then led through ſoldiers, and ſurpriſed abſolutely, I could not give that reaſon why I thought the law allowed me a copy. My lord, I was denied a copy, and thereby I was deprived of the benefit of a ſpecial plea I deſigned to have put in. This would have been a great help to your lordſhip, and to me; the denial of which hath been a great prejudice. Now, my lord, that which I thought was law then, I think I can give a better teſtimony that it is ſo now, upon the ſtatute of 46 E. 3, wherein it is expreſſed, that *tout partes & tout gents*, that is, all people, ſhall have a copy of every record; and it enumerates ſeveral matters, as well that againſt the king as other people. This is a general law ſtill in force. My lord Strafford had a copy, and my lord Stafford, and the lords in the Tower had copies of their indictments: And, under favour, I think it was never more neceſſary than to me, there never having been, perhaps, a charge ſo long, and ſo confuſed. Now, my lord, I have a copy tranſcribed of this ſtatute. [*Shewing a paper.*]

L. C. J. We remember the law very well. Mr. Sydney did move for a copy of the indictment, and the court denied him then, and ſo ſhall now. And yet all this while we ſhall deny you nothing that is law. You ſhall have the right that becomes a ſubject in your condition. And we muſt tell you, that notwithſtanding all that caſe, we ought not to have given you ſo much favour (perhaps in ſtrictneſs) as we did. And becauſe you did particularly take notice of the caſe of ſir Henry Vane laſt time, I will ſhew you the court did indulge more to you, than was done to that perſon. In ſir Henry Vane's caſe, by the opinion of all the judges it was declared, that no copy ought to be given, neither of the whole, nor any part of the indictment, except they ſhew matter of law. But your counſel, ſince you went away, moved for the copy of the indictment; and, to ſatisfy them, I directed the caſe that you took notice of to be read in the court. And I thought they had been ſufficiently ſatisfied. You had the indictment read to you in latin; which was denied in the caſe of ſir Henry Vane. And there is a later caſe known to moſt perſons here. By the opinion of all the judges of England, a copy of the indictment was denied to my lord Ruſſel. Therefore arraign him upon the indictment; we muſt not ſpend our time in diſcourſes to captivate the people.

Col. Sydney. Is not this a good law, my lord? [*Holding out a paper.*]

L. C. J. You have the rule of the court.

Mr. Juſt. Wythins. Any thing the law will allow you, you ſhall have: but, I am ſure, if you did adviſe with your counſel, they muſt tell you the ſame thing.

So the clerk of the crown called the jury; and, after ſeveral challenges, the names of the jury were as follow.

THE JURY.

John Amger.	Joſias Clerke.
Richard White.	George Gliſby.
William Linn.	Nicholas Baxter.
Lawrence Wood.	William Reeves.
Adam Andrews.	William Grove.
Emery Arguiſe.	John Burt.

L. C. J. Look you, gentlemen of the jury: there are ſome gentlemen at the bar, as we are informed, are apt to whiſper the jury; it is no part of their duty, nay, it is againſt their duty: and therefore, gentlemen, if you hear any of them by you, that offer to whiſper, or make comments in this cauſe, as you are upon your oaths, and I doubt not but will do your duty between the king and the priſoner; ſo I expect, if you hear the counſel ſay any thing, you will inform the court. Let us have no remarks, but a fair trial, in God's name.

Clerk of the Crown. You that are ſworn, look upon the priſoner, and hearken to his cauſe. He ſtands indicted by the name of Algernon Sydney of etc. as in the indictment. Your charge is to enquire etc.

Then proclamation for evidence was made.

Mr. Dolben. May it pleaſe your lordſhip, and you gentlemen that are ſworn. This is an indictment of high treaſon preferred againſt Algernon Sydney, the priſoner at the bar. The indictment ſets forth, That he, as a falſe traitor againſt our moſt illuſtrious prince Charles the Second his natural lord, not having the fear of God in his heart, etc. on the thirtieth of June in the thirty fifth year of the king, and divers other days and times, as well before as after, in the pariſh of St. Giles in the Fields, in the county of Middleſex, traiterouſly, with divers traitors unknown, did conſpire the death of the king, and to levy war within this kingdom. And to complete theſe traiterous purpoſes did then and there malicioufly, adviſedly, and traiterouſly, ſend one Aaron Smith into Scotland, to excite ſome ill-diſpoſed perſons of that kingdom to come into this, and to conſult with the ſaid Algernon Sydney, and other traitors, of and upon aſſiſtance from the kingdom of Scotland, to carry on thoſe deſigns. And the indictment ſets forth further, that to perſuade the people of England it was lawful to raiſe rebellion, the ſaid Algernon Sydney did cauſe to be written a falſe ſeditious libel, in which is contained theſe Engliſh words, " The power originally in the people of England " is delegated unto the parliament. The king is ſubject to the law of " God as he is a man; to the people that makes him a king, in as much " as he is a king: the law ſets a meaſure unto that ſubjection," etc. [as in the indictment.] This is laid to be againſt the duty of his allegiance, *againſt the peace of the king*, his crown and dignity, and againſt the form of the ſtatute in that caſe made and provided. If we prove him guilty, we doubt not but you will find it.

Mr. Att. Gen. My lord, and you gentlemen of the jury, the priſoner at the bar ſtands indicted of the higheſt crimes, the conſpiring the death of the king, and the overthrow of the Engliſh monarchy. Gentlemen, we ſhall uſe this method in our evidence. We ſhall ſhew by many witneſſes, that there was a deſign of raiſing and making a rebellion within this kingdom. For, gentlemen, you muſt take notice, and I think there is no Engliſhman but does believe, that for ſeveral years laſt paſt a deſign was laid, and for that purpoſe ſeveral inſinuations were made uſe of, and public libels ſpread abroad, to perſuade the people that the king was introducing arbitrary power, that he ſubverted all their rights, liberties, properties, and whatever was dear to them. They endeavoured to make the world believe the king was a papiſt. And when, gentlemen, by ſuch ſtratagems they had worked upon many incautelous perſons, when they thought they had gotten a ſufficient party, then there was a deſign of an open riſing, for they thought all things were ripened, and that was to be in ſeveral parts of the kingdom. Some perſons, to effect this deſign, were for a preſent aſſaſſination of the king. Others would do it in a more fair and genteel way; they thought it below perſons of that great quality as the priſoner is, and therefore were for doing it by open force.

When we have given that general evidence, we ſhall then come to ſhew you what ſhare and part the priſoner had in this deſign. For certainly he was looked upon as a very eminent perſon, whoſe education abroad, and former practices at home, had rendered him fit to adviſe and proceed in ſuch affairs. We ſhall prove, when theſe matters were ripe this gentleman was of the council of ſtate, of the ſix that were to manage this matter of the riſing. We ſhall ſhew the ſeveral conſultations they held; one at Mr. Hambden's houſe, another at the houſe of my lord Ruſſel. There we ſhall acquaint you what debates they had, for they acted like very ſubtle men, and there they debated, whether the riſing ſhould be firſt in the country, or city, or both together. They came to a reſolution it ſhould be in both places at once. Then when they had aſſerted that point, they come to conſider the time of riſing; and upon that they thought fit to call in aid of Scotland firſt; and that was this gentleman's particular province: for he, being a man of great ſecreſy, was to ſend an emiſſary into that kingdom, and invite ſome perſons over to treat with them about it. We ſhall prove that an emiſſary was ſent, and this gentleman gave him a conſiderable ſum to bear his charges. We ſhall prove that ſeveral Scotch gentlemen, in purſuance of this reſolve, came here to treat with this great council of ſtate, about this affair: and ſhall make it appear to you, that as ſoon as ever the leaſt diſcovery of this plot was, theſe perſons concealed themſelves and withdrew, as the reſt of the plotters that have fled from juſtice.

Gentlemen, this was not enough for this gentleman, to conſult on theſe ſeveral paſſages; but, to demonſtrate to the world that his head and heart was entire in this ſervice, and that he might carry it on the more effectually, he was at this very time, when this emiſſary was gone into Scotland, preparing a moſt ſeditious and traiterous libel: we inſtance in ſome particular words of it; but we ſhall ſhew you, that the whole deſign of this treatiſe is to perſuade the people of England, that it is lawful, nay, that they have a right, to ſet aſide their prince, in caſe it appear to them that he hath broken the truſt laid upon him by the people. Gentlemen, he does uſe in that treatiſe ſeveral arguments drawn from the moſt rebellious times that ever were in England, from the late rebellion (I muſt needs uſe that word notwithſtanding the act of oblivion, when a gentleman ſhall now attempt to do thoſe things for which he was pardoned then) and from other kingdoms where rebellion hath been proſperous againſt princes. Then he falls to reaſoning, and uſes great reaſon in the caſe, that all the power of the prince is originally in the people; and applies that diſcourſe, that the power of the king was derived from the people upon truſt; and they had already declared the king had invaded their rights: and therefore he comes to argue, they might reſume that original power they had conferred. And he tells the king, that is no hard condition; if he thinks it ſo, he ſhould lay down his crown; if not, he threatens the condition would be exacted, or otherwiſe ſhould be revenged by thoſe he had betrayed: and who but this gentleman and his confederates,

confederates, that thought himſelf not only able to govern this nation, but many monarchies, ſhould call him to account for it? For he lays down this principle, That though all the people do riſe againſt their prince, it is no rebellion. The whole book is an argument for the people to riſe in arms, and vindicate their wrongs. He lays it down, "That "the king has no authority to diſſolve the parliament; but it is apparent "the king hath diſſolved many; therefore he hath broken his truſt, and "invaded our rights." And at laſt concludes with that paſſage laid in the indictment, "We may therefore ſhake off our yoke; for it is not a "yoke we ſubmitted to, but a yoke by tyranny, that muſt be the "meaning of it, they have impoſed on us."

Gentlemen, if we prove all theſe matters to you, I doubt not you will do right to the king and kingdom, and ſhew your abhorrence of thoſe republican principles; which, if put in practice, will not only deſtroy the king, but the beſt monarchy in the world.

Mr. Sol. Gen. [*Heneage Finch*, Eſq;] Pray call Mr. Weſt. [*Who appeared.*]

Col. Sydney. I pray one word, my lord, before Mr. Weſt be ſworn. I have heard, my lord, Mr. Weſt hath confeſſed many treaſons, and I deſire to know whether he is pardoned, or no.

L. C. J. I do not know that.

Col. Sydney. My lord, how can he be a witneſs then?

L. C. J. Swear him, for I know no legal objection againſt him. He was a good witneſs in my lord Ruſſel's trial.

Col. Sydney. My lord, if another did not except againſt him, it is nothing to me.

Mr. North. Pray give an account to the court of what you know of a general inſurrection intended in England.

Col. Sydney. What he knows concerning me.

L. C. J. We will take care of that, that no evidence be given but what ought to be.

Col. Sydney. Is it ordinary that he ſhould ſay any thing, unleſs it be to me and my indictment?

L. C. J. Mr. Sydney, you remember in all the trials about the late popiſh plot, how there was firſt a general account given of the plot in Coleman's trial, and ſo in Plunket's, and others; I do not doubt but you remember it. And Sir William Jones, againſt whoſe judgment, I believe, you will not object, was attorney at that time.

Mr. North. Mr. Weſt, what do you know of the general inſurrection lately deſigned?

Mr. Weſt. My lord, I have had the honour to know Colonel Sydney ſeveral years; but I don't remember that I ever ſaw him from the time I came acquainted with any part of the conſpiracy, till the diſcovery that was at the council.

Mr. North. Pray give an account of what you know of the plot in general.

Mr. Weſt. My lord, in October laſt captain Walcot came to me, and told me that my lord Shafteſbury had deſigned an inſurrection in November.

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I us'ed ſome arguments to diſſuade him from it. But a little afterwards he came and told me the thing was wholly diſappointed, and then he went off, and my lord Shafteſbury went for Holland. Colonel Rumſey afterwards, about Chriſtmas, ſaid there were ſome lords and gentlemen intended to make an inſurrection: the perſons were the duke of Monmouth, my lord of Eſſex, my lord Howard, my lord Ruſſel, the priſoner at the bar, and Mr. Hambden junior. After ſome time, he told me they had altered their meaſures, and were reſolved not to venture upon an inſurrection in England, till they had a concurrency in Scotland. Afterwards, I was not privy to any thing elſe, but what I had the report of from Mr. Nelthorp and Mr. Ferguſon. Mr. Nelthorp told me the priſoner had ſaid——

Col. Sydney. My lord, I am very unwilling to interrupt the gentleman—

L. C. J. You muſt not interrupt the witneſs. Go on, ſir.

Mr. Weſt. Mr. Nelthorp told me, the priſoner at the bar had ſent Aaron Smith into Scotland, and given him a ſum of money to bear his charges, and ſent letters to ſome Scotch gentlemen to invite them to town. The letter bore a cant of ſettling ſome buſineſs in Carolina; but the buſineſs was coming up about the inſurrection. After this Mr. Smith returned, and ſome Scotch gentlemen with him; and ſoon after Mr. Ferguſon gave an account of that affair, and ſaid, the Scots propoſed, if they might have thirty thouſand pounds in ready money, they would undertake to make an inſurrection in Scotland without the concurrence of England. He ſaid this propoſal was agreed to, and money would be ſoon ready; and he ſaid, that Sheppard would return the money; that the arms were ready bought, and my lord of *Argyll* would go into Scotland, and head the Scots. He told me when things were thus ſettled, ſome difference aroſe about raiſing the money; and at laſt he told me, my lord Grey did offer to raiſe ten thouſand pounds out of his own eſtate, if the reſt would pay their proportion. Then the Scots came down to leſs; but that would not be complied with. The places for the riſing were Briſtol, Taunton, York, Cheſter, Exeter, London. That there had been ſome debates whether they ſhould begin at London, or the other places; and at laſt it was reſolved, they ſhould begin at London, with the reſt of the places.

My lord, this was the account I had of the matter in general, of Mr. Ferguſon; but he ſaid they were diſappointed. Afterwards he told me, the priſoner at the bar and major Wildman were very inſtrumental in working of it off, becauſe they could not agree upon the declaration to be made upon the inſurrection. The Engliſh were for a commonwealth; but the Scotch gentlemen anſwered fairly, it might come to it in time, but the noblemen there would not agree to it at preſent. As to the priſoner in particular, I know nothing, and did never ſpeak with him till ſince the diſcovery.

Mr. Att. Gen. Colonel Rumſey. [*ſworn.*]

Mr. North. Pray, ſir, will you give the court an account of what you know of any inſurrection intended, and how they deſigned to carry it on.

Col. Rumſey. My lord, the latter end of October, or beginning of November, I was deſired by my lord Shafteſbury to go to Mr. Sheppard's, to know of the gentlemen that were met there, what was done about the riſing intended at Taunton: and I had their anſwer, that Mr. Trenchard had failed them, and that it muſt ceaſe for that time. That was all at that time.

Mr. Sol. Gen. What elſe do you know of any inſurrection afterwards?

Col. Rumſey. After that, we had ſeveral meetings at Mr. Weſt's chamber, where he had divided the city into twenty parts, and ſeven parts Mr. Goodenough had brought an account of; the other thirteen he ſaid nothing of; for he had not ſpoke with thoſe that were to tell him how many men they would afford. There was there captain Walcot, Mr. Weſt, the two Goodenoughs, Mr. Borne, Mr. Wade, and myſelf.

L. C. J. What was the reſult of thoſe debates?

Col. Rumſey. To ſee what number of men they could produce in the city for the inſurrection.

L. C. J. Was there a riſing deſigned?

Col. Rumſey. Yes.

L. C. J. And did theſe people meet?

Col. Rumſey. There was no time ſet.

Mr. Sol. Gen. When was the meeting?

Col. Rumſey. There were ſeveral meetings in March, and April, and May.

Mr. Sol. Gen. After the meeting at Sheppard's?

Col. Rumſey. Yes, a great while. It ceaſed, I think, ſix weeks or three months.

L. C. J. Who did you meet with at Mr. Sheppard's?

Col. Rumſey. There was the duke of Monmouth, my lord Grey, my lord Ruſſel, ſir Thomas Armſtrong, Mr. Ferguſon, and Mr. Sheppard.

Mr. Sol. Gen. Who did you expect ſhould head this army?

Col. Rumſey. That was never ſaid any thing of.

Mr. Att. Gen. Who were to manage the riſing?

Col. Rumſey. We that met there.

Mr. Att. Gen. Had you no expectation of great men?

Col. Rumſey. Mr. Weſt * told me, and Mr. Goodenough, that there was a council, which were the duke of Monmouth, my lord Eſſex, my

* The witneſſes of the other parts of the plot were now brought out again to make a ſhew; for they knew nothing of *Sydney*. Only they ſaid, that they had *heard* of a council of ſix, and that he was one of them. Yet even in that *they contradicted one another*; *Rumſey* ſwearing that he had it from *Weſt*, and *Weſt* ſwearing that he had it from him; *which was not obſerved till the trial came out.* If it had been obſerved ſooner, perhaps *Jefferies* would have ordered it to be ſtruck out; *as he did all that Sydney had objected upon the point of the Jury, becauſe they were not freeholders.*

Burnet's Hiſt. of his own times, v. 1. p. 571.

my lord Howard, colonel Sydney, Mr. Hambden, and my lord Ruſſel there was ſix.

L. C. J. What did he tell you of them ſix?

Col. Rumſey. He told me they were managing a buſineſs with Scotland

L. C. J. A buſineſs, pray ſpeak plain, tell all you know.

Col. Rumſey. For the inſurrection.

L. C. J. Say ſo then, we know nothing of the buſineſs you were about.

Col. Rumſey. My lord, Mr. Weſt had that diſcourſe with my lord Howard I never had; he is more fit to ſpeak to that than me.

L. C. J. Speak your own knowledge, and no more.

Mr. Jones. After the death of my lord Shafteſbury, who were the managers, and were to carry it on?

Col. Rumſey. I told you Mr. Weſt and Mr. Goodenough did tell me the duke of Monmouth, my lord Eſſex——

Mr. Att. Gen. He told you ſo before. Do you know there was an inſurrection then intended?

Col. Rumſey. Yes, becauſe we met towards the management of it, the company that met at Mr. Weſt's chamber, and other places.

Mr. Att. Gen. What diſcourſe had you with Mr. Ferguſon about it?

Col. Rumſey. None about thoſe gentlemen.

Mr. North. The next thing we ſhall ſhew ſhall be, that the Scotchmen came to town.

Col. Sydney. My lord, I muſt ever put you in mind, whether it be ordinary to examine men upon indictments of treaſon concerning me that I never ſaw, nor heard of in my life.

L. C. J. I tell you, all this evidence does not affect you, and I tell the jury ſo.

Col. Sydney. But it prepoſſeſſes the jury.

Mr. Keiling called and ſworn.

Mr. Att. Gen. I aſk you in general, what you know of the riſing to have been laſt ſpring?

Mr. Keiling. My lord, it was ſome time laſt ſummer Mr. Goodenough came to me, and brought me three papers numbered on the back-ſide. I aſked him to what end he delivered them me? He told me, one was for myſelf, and I was to deliver the other two to whom I could truſt in the two diviſions. I aſked him, what was the deſign? he ſaid, To raiſe men: ſays I, Do you deſign a general inſurrection? he ſaid, If he did not, if the king was taken off this would do well; for then the people would know how to have recourſe to a formidable body. And I have heard him ſay, that colonel Sydney, whom I do not know, had a conſiderable part in the management of that affair.

Mr. Att. Gen. We charge him with conſpiring, and there muſt be confederates in the caſe. Now then we come to the priſoner, we will call my lord Howard, that was one of the perſons that did conſult.

The lord Howard ſworn.

Mr. Att. Gen. Pray acquaint my lord and the jury of your knowledge of what tranſactions there have been with the priſoner about this affair of the general riſing.

Lord Howard. Truly, my lord, in the entering of the evidence I am about to give, I cannot but obſerve what a natural uniformity there is in truth. For the gentlemen that have been before, have ſo exactly inſtanced in every particular with what I have to ſay, that two tallies could not more exactly fall into one another, though, I confeſs, I had not ſeen their faces, till the plot brake out, for ſome months before.

My lord, and gentlemen of the jury, about the middle of January laſt, it was conſidered by ſome of us that met together, that it was very neceſſary and expedient to an enterprize that had been long in hand, and fallen flat then, that it ſhould be revived by ſome conſult or cabal that ſhould be ſet up to give life to it, and governance to the motions of it. The firſt (for ought I know) movers of this, were the duke of Monmouth, the gentleman at the bar, and myſelf: and there we did agree, that we ſhould bethink ourſelves of ſome few, we were willing it ſhould not exceed five, at the moſt ſeven. This agreement being at firſt between us three; I remember the duke of Monmouth undertook to engage my lord Ruſſel and my lord Saliſbury; and this gentleman, colonel Sydney, for my lord of Eſſex and Mr. Hambden; and theſe being put together, did preſently conſtitute a little cabal of as great a number as was intended. This being ſettled among them, it was within a few days after, I cannot certainly tell when, but between the middle and latter end of January, that I was told, that the perſons had agreed to enter into this conjunction of counſels; and, in order to that, they had appointed a meeting at Mr. Hambden's houſe, to which I was invited. This in time was between the middle and latter end of January, but I cannot tell exactly. When we came there, there was all thoſe gentlemen I before named, the duke of Monmouth, my lord Eſſex, my lord Ruſſel, colonel Sydney, Mr. Hambden, and myſelf. It was at Mr. Hambden's houſe, which ranges on the ſame row with Southampton houſe: and being met, Mr. Hambden, I ſuppoſe, did think it moſt properly belonged to him, to take upon him the part, as it were, to open the ſeſſions; that was, to give us a little account of the reaſon, end, and intention of that meeting: in which diſcourſe, he took occaſion to recapitulate ſome deſign, that had been before chiefly carried on by my lord Shafteſbury, before this time dead; and alſo took notice of the ready diſpoſition and inclination of the minds of men to go on with it; and did give one inſtance of his judgment of it, that it being a deſign communicated to ſo many, it had not been ſo much as revealed, or a murmur or whiſper gone about it: from whence he took occaſion to tell us, that it was abſolutely neceſſary for the future there ſhould be ſome council, that ſhould be as a ſpring a little to guide and govern the motions of the reſt; for that there were divers things to be taken care of, which, if not taken care of by particular

perſons, would all miſcarry. This was the ſubſtance of the prologue and introduction he made. From hence he made a tranſition to ſome particular things that he thought were moſt principally to be taken care of. And though it is impoſſible for me to remember the order and method in which we diſcourſed, or who ſaid this or that; but that which the ſenſe of all reſulted to was this, That ſince we did not come prepared for it, we ſhould conſider what were the things that would hereafter challenge our particular care; that was, the time when, the places where, and perſons by whom, theſe things ſhould be carried on. This led into ſome particular diſcourſe concerning ſome of theſe heads: for the time, that it ſhould be ſhortly, leſt the minds of men ſhould chill: and then as to the place where, whether in the city or country, or both jointly; in all theſe, ſome opinions were given, but not ſettled to any reſolution, but they were committed to our thoughts to be digeſted afterwards. But theſe being the things that every one was to take upon his thoughts, there was this pre-requiſite to the undertaking, and that was, to conſider what magazines were to be got: and that led to another particular, which was, with what they ſhould be gotten, and that was money; and thereupon was propounded a conſiderable ſum to be raiſed; and, as I remember, the ſum propounded by the duke of Monmouth was twenty-five thouſand pounds, or thirty thouſand pounds. And then it was conſidered, how it ſhould be raiſed without drawing obſervation or jealouſy. Theſe are only the heads that were then agreed on, hereafter to be better conſidered. But the preſent reſolution that was taken, was, that before any procedure was made in any of theſe things, or any advance towards the undertaking, the firſt thing to be conſidered was, how to make a coalition of councils between Scotland and what we were doing here; and for that purpoſe we ſhould bethink ourſelves of ſome fit perſon to be ſent thither to unite us into one ſenſe and care. This is as much as occurs to my memory upon that meeting. About a fortnight or three weeks after, which I ſuppoſe carried it to the middle of February next, we had another meeting, and that was at Southampton houſe at my lord Ruſſel's, and there was every one of the ſame perſons; and when we came there, there happened to fall in a diſcourſe which I know not how it came in, but it was a little warmly urged, and thought to be untimely, and unſeaſonable; and that I remember was by Mr. Hambden, who did tell us, that having now united ourſelves into ſuch an undertaking as this was, it could not but be expected that it would be a queſtion put to many of us, To what end all this was? Where it was we intended to terminate? Into what we intended to reſolve? that theſe were queſtions he met with; and, it was probable, every one had or would meet with, from thoſe perſons whoſe aſſiſtance we expected; and that if there was any thing of a perſonal intereſt deſigned or intended, that there were but very few of thoſe, whoſe hearts were now with us, but would fall off: and therefore, ſince we were upon ſuch an undertaking, we ſhould reſolve ourſelves into ſuch principles, as ſhould put the properties and liberties of the people into

ſuch

ſuch hands, as they ſhould not be eaſily invaded by any that were truſted with the ſupreme authority of the land: and it was mentioned, to reſolve all into the authority of the parliament. This was moved by him, and had a little harſhneſs to ſome that were there; but yet upon the whole matter we generally conſented to it, that it was nothing but a public good that we all intended. But then, after that, we fell to that which we charged ourſelves with at the firſt meeting, and that was concerning ſending into Scotland, and of ſettling an underſtanding with my lord of Argyll: And, in order to this, it was neceſſary to ſend a meſſenger thither to ſome perſons whom we thought were the moſt leading men of the intereſt in Scotland. This led us to the inſiſting on ſome particular perſons; the gentlemen named were my lord Melvin, ſir John Cockram, and the Campbells; I am ſure it was ſome of the alliance of my lord of Argyll, and I think of the name. As ſoon as this was propounded, it was offered by this gentleman, colonel Sydney, that he would take the care of the perſon; and he had a perſon in his thoughts, that he thought a very fit man to be intruſted; one or two, but one in ſpecial, and he named Aaron Smith to be the man, who was known to ſome of us, to others not; I was one that did know him, and as many as knew him, thought him a proper perſon. This is all that occurs to me that was at the ſecond meeting, and they are the only conſults that I was at.

Mr. Att. Gen. What was he to do?

Lord Howard. There was no particular deed for him, more than to carry a letter. The duke of Monmouth undertook to bring my lord Melvin hither, becauſe he had a particular dependance upon him, and I think ſome relation to his lady: but to ſir John Cockram there was a letter to be ſent under the diſguiſe of carrying on ſome buſineſs of the plantation in Carolina. This letter, I ſuppoſe, was writ by my lord Ruſſel (though I know it not) for he was perſonally known to my lord Ruſſel, and I do not know that he was known to any of us. About three weeks after this, then he was diſpatched, I ſuppoſe.

Mr. Att. Gen. To what purpoſe were theſe gentlemen to come up?

Lord Howard. Theſe were to acquaint us how they found Scotland tempered, and what opportunities or advantages there were or might be of putting them into a commotion, and how men might be raiſed, and how they would fall under Argyll, and alſo to keep time and place with us. After this, I was with colonel Sydney when he was going into London, and he did take out ſeveral guineas, I cannot tell how much it was, I ſuppoſe they might be about ſixty, and put them into his pocket (and ſet me down at my lodging) which he ſaid were to give Aaron Smith; whether he gave it or no, I do not know; and after that he was ſent.

Mr. Att. Gen. Who told you ſo?

Lord Howard. Colonel Sydney, for I was inquiring of him; and he ſaid, he had not heard of him in three weeks, or but once when he was about Newcaſtle. After this, I had occaſions that called me into the country, and there I was. Some time after that, I went to the Bath: And this is all the account I can give.

Mr. Sol. Gen. Do you know that Aaron Smith did go?

Lord Howard. I know nothing but by hear-ſay. Colonel Sydney told me, he was gone, and was upon the road, and he heard from him about Newcaſtle.

L. C. J. Did you underſtand by the diſcourſe after he was gone, that he went in purſuance of that debate?

Lord Howard. Yes, my lord, that was the whole end of his going.

Mr. Juſt. Wythins. I think you ſay, that gentleman (ſpeaking of col. Sydney) undertook to ſend him?

Lord Howard. Yes, he did.

L. C. J. Will you aſk him any queſtions?

Col. Sydney. I have no queſtions to aſk him.

Mr. Att. Gen. Silence——You know the proverb. The next ſtep is to ſhew you, my lord, that theſe perſons came up immediately after Aaron Smith went down thither; and, according to that which was ſaid to be the ſhadow and pretence of their coming hither, they pretended they came about Carolina buſineſs. Sir Andrew Foſter and Mr. Blathwaite.

Sir Andrew Foſter ſworn.

Mr. Att. Gen. Pray, ſir, give an account what Scotch gentlemen came up lately.

Sir A. Foſter. My lord, about the end of the ſpring, or beginning of ſummer, as I remember, theſe gentlemen, ſir John Cockram, and commiſſary Monro, and the two Campbells, father and ſon, came up hither. I did not ſee the father at all, but I ſaw the ſon the day of the lord Ruſſel's trial; but the other two, I think, I ſaw a little before the diſcovery of the plot.

Mr. Att. Gen. What did they pretend they came about?

Sir A. Foſter. They pretended they came to make a purchaſe in Carolina, and I ſaw their commiſſion from the perſons ſaid to be concerned in that deſign.

L. C. J. Who do you ſpeak of?

Sir A. Foſter. Sir John Cockram and commiſſary Monro.

Mr. Att. Gen. As ſoon as the rumour came of the plot, what became of thoſe gentlemen?

Sir A. Foſter. Sir John Cockram abſconded, but commiſſary Monro never abſconded, and the Campbells, I heard, were ſeized changing their lodging from place to place.

Mr. Atterbury ſworn.

Mr. Att. Gen. Mr. Atterbury, will you give my lord and the jury an account what you know of theſe Scotchmen their abſconding and lying hid?

Mr. Atterbury. My lord, upon the latter end of June, or the beginning of July, the beginning of July it was, I was ſent for into London upon a diſcovery of ſome Scotch gentlemen that lay about Black-Friars; and when I came down there, there was the common ſergeant, and ſome others, had been before me, and found them making an eſcape into a boat.

Mr. Att. Gen. Who were they?

Mr. Atterbury. Sir Hugh Campbell, and ſir John Cockram, and one that was committed to the Gate-houſe by the council as ſoon as brought thither.

Mr. Att. Gen. We ſhall end here, my lord. How long had they been in town?

Mr. Atterbury. They had been in town ſome little time.

Mr. Att. Gen. We have done with this piece of our evidence. Now to ſhew that while this emiſſary was in Scotland, at the ſame time the colonel (which will be another overt act of the treaſon) was writing a treaſonable pamphlet, I will call you the witneſſes. It is all of his own writing.

Sir Philip Lloyd ſworn.

Mr. Att. Gen. Sir Philip Lloyd, pray, will you look upon thoſe papers, and give my lord and the jury an account where you found them?

Sir Philip Lloyd. I had a warrant, my lord, from the Secretary by the king and council, to ſeize Mr. Algernon Sydney's papers; and, purſuant to it, I did go to his houſe, and ſuch as I found there I put up. I found a great many upon the table, among which were theſe, I ſuppoſe it is where he uſually writes. I put them in a pillowbear I borrowed in the houſe, and that in a trunk. I deſired Col. Sydney would put his ſeal upon them, that there ſhould be no miſtake. He refuſed: ſo I took my ſeal, and ſealed up the trunk, and it was carried before me to Mr. Secretary Jenkins's office. When the committee ſat, I was commanded to undo the trunk, and I did ſo, and found my own ſeal upon it. And I took the papers out of the bag I put them into before.

L. C. J. Was colonel Sydney preſent when you ſeized theſe papers?

Sir P. Lloyd. Yes.

Mr. Att. Gen. Are theſe ſome of thoſe papers?

Sir P. Lloyd. Yes, I verily believe it.

Mr. Att. Gen. In the next place, I think we have ſome papers of his particular affairs which will prove his hand. Call Mr. Sheppard, Mr. Cooke, and Mr. Cary.

Mr. North. Sir Philip Lloyd, when were they ſeized?

Sir P. Lloyd. Towards the latter end of June, my lord.

Jury-Man. Which June?

Sir P. Lloyd. Laſt June.

Mr. Sheppard ſworn.

Mr. Att. Gen. Pray will you look upon thoſe writings? [*ſhewing the libel.*] Are you acquainted with colonel Sydney's hand?

Mr. Sheppard. Yes, my lord.

Mr. Att. Gen. Is that his hand-writing?

Mr. Sheppard. Yes, Sir, I believe ſo. I believe all theſe ſheets to be his hand.

Mr. Att. Gen. How come you to be acquainted with his hand?

Mr. Sheppard. I have ſeen him write the indorſement upon ſeveral bills of exchange.

Mr. Cary ſworn.

Col. Sydney. My lord, I deſire you would pleaſe to conſider this, that ſimilitude of hands can be no evidence.

L. C. J. Reſerve yourſelf till anon, and make all the advantage of remarks you can.

Mr. Att. Gen. Have you had any dealing with him?

Mr. Cary. I never ſaw him write to my knowledge more than once in my life, but I have ſeen his indorſement upon bills, and it is very like that.

L. C. J. Do you believe it is his hand as far as you can gueſs?

Mr. Cary. My lord, it is like what came to me for his hand writing.

L. C. J. And you believe it to be his hand?

Mr. Cary. Yes.

Mr. Cooke ſworn, and the papers ſhewn him.

L. C. J. What ſay you, Mr. Cooke?

Mr. Cooke. My lord, I did never ſee Col. Sydney write, but I have ſeen ſeveral notes that have come to me with indorſement of his name, and we have paid them, and it is like to this.

L. C. J. And you were never called to account for miſpayment?

Mr. Cooke. No, my lord.

Mr. Att. Gen. I pray it may be read. We will read as much as is neceſſary to prove the indictment.

Col. Sydney. I pray it may be all read.

L. C. J. Mr. Attorney muſt have what part he deſires read, and you ſhall have what part you will have read afterwards.

Col. Sydney. I deſire all may be read.

Mr. Att. Gen. Begin there. "Secondly, There was no abſurdity in "this, becauſe it was their own caſe.

Clerk reads.

"2*dly*, There was no abſurdity in this, though it was their own caſe; "but to the contrary, becauſe it was their own caſe, that is, concerning "themſelves only, and they had no ſuperior. They only were the com- "petent judges, they decided their controverſies, as every man in his "own family doth ſuch as ariſe between him and his children, and his "ſervants. This power hath no other reſtriction, than what is put "upon it by the municipal law of the country where any man lives; "and that hath no other force, than as he is underſtood to have conſented "unto it. Thus in England every man, in a degree, hath a right of "chaſtiſing them; and in many places, even by the law of God, the "maſter hath a power of life and death over his ſervant. It were a moſt "abſurd folly to ſay that a man might not put away, or in ſome caſes "kill, an adulterous wife, a diſobedient ſon, or an unfaithful ſervant, "becauſe he is party and judge; for the caſe doth admit of no other, "unleſs he had abridged his own right by entering into a ſociety where "other rules are agreed upon, and a ſuperior judge conſtituted: there "being none ſuch between king and people, the people muſt needs be "the judge of things happening between them and him, whom they did

"not

" not conſtitute that he might be great, glorious, and rich; but that he " might judge them, and fight their battles; or otherwiſe do good unto " them as they ſhould direct. In this ſenſe, he that is *ſingulis major*, and " ought to be obeyed by every man in his juſt and lawful commands " tending to the public good, muſt be ſuffered to do nothing againſt it, " nor in any reſpect more than the law doth allow.

" For this reaſon Bracton ſaith, that the king hath three ſuperiors, to " wit, *Deum, legem, et parliament'*; that is, the power originally in the " people of England is delegated unto the parliament. He is ſubject " unto the law of God as he is a man; to the people that makes him " a king, in as much as he is a king: the law ſets a meaſure unto " that ſubjection, and the parliament judges of the particular caſes " thereupon ariſing: he muſt be content to ſubmit his intereſt unto " theirs, ſince he is no more than any one of them, in any other reſpect " than that he is, by the conſent of all, raiſed above any other.

" If he doth not like this condition, he may renounce the crown; but " if he receive it upon that condition, as all magiſtrates do the power " they receive, and ſwear to perform it, he muſt expect that the perfor- " mance will be exacted, or revenge taken by thoſe that he hath betrayed.

" If this be not ſo, I deſire to know of our author, how one or more " men can come to be guilty of treaſon againſt the king, as *lex facit ut* " *ſit rex*. No man can owe more unto him than unto any other, or he " unto every other man, by any rule but the law; and if he muſt not " be judge in his own caſe, neither he, nor any other by power received " from him, would ever try any man for an offence againſt him, or the " law.

" If the king, or ſuch as he appoints, cannot judge him, he cannot " be judged by the ways ordinarily known among us. If he, or other " by authority from him, may judge, he is judge in his own caſe, and " we fall under that which he accounts the utmoſt of all abſurdities: if " a remedy be found for this, he muſt ſay that the king in his own caſe " may judge the people, but the people muſt not judge the king, becauſe " it is theirs: that is to ſay, the ſervants entertained by the maſter may " judge him, but the maſter muſt not judge the ſervant whom he took " only for his own uſe; the magiſtrate is bound by no oath or contract " to the people that created him, but the people is bound to its own " creature, the magiſtrate.

" This ſeems to be the ground of all our author's follies: he cannot " comprehend that magiſtrates are for or by the people; but makes this " concluſion, as if nations were created by or for the glory or pleaſure of " magiſtrates: and, after ſuch a piece of nonſenſe, it ought not to be " thought ſtrange if he repreſent, as an abſurd thing, that the headleſs " multitude may ſhake off the yoke when they pleaſe. But I would know " how the multitude comes under the yoke; it is a badge of ſlavery. He " ſays that the power of kings is for the preſervation of liberty and " property. We may therefore change or take away kings without

" breaking

" breaking any yoke, or that is made a yoke which ought not to be one;
" the injury is therefore in making or impoſing, and there can be none
" in breaking it.

" That if there be not an injury, there may perhaps be an inconve-
" nience if the headleſs multitude may ſhake off the yoke. I know not
" why the multitude ſhould be concluded to be headleſs; it is not always
" ſo. Moſes was head of the multitude that went out of Egypt. Othniel
" led them againſt the king of Meſopotamia. Under the conduct of
" Phineas they obtained a victory againſt the Midianites: they had the
" like ſucceſs under Shamgar, Barak, Gideon, Jephthah, Samuel, Samſon,
" and others, againſt Canaanites, Moabites, Philiſtines, and others.
" The multitude that oppoſed Saul and Iſhboſheth had David for its head;
" and the ten tribes that rejected Rehoboam choſe unto themſelves
" Jeroboam. The Athenians riſing againſt the thirty tyrants had Thra-
" ſybulus; thoſe that drave * from Thebes were conducted by
" Pelopidas. When the Romans drave out the Tarquins, they choſe
" Brutus and Publicola; and they deſtroyed the Decemviri under
" Horatius and Valerius. All the multitudes that afterwards revolted
" from them under Mauritius, Telerius, Spartanus, and others, were
" not headleſs; and we know of none that were, but all either found
" heads, or made them. The Germans ſet up Arminius; the Britains,
" and others; in latter times, the Caſtilians, that roſe againſt Peter the
" Cruel, had the lord de Traſtamare.

" The French, when they grew weary of the corrupted races of Phara-
" mond and Pepin, had the ſame Pepin and Hugh Capet: the Scots,
" when they ſlew James the third, had his ſon to be their head: and
" when they depoſed and impriſoned Queen Mary, the earl of Murray
" and others ſupplied the want of age that was in her ſon: and in all
" the revolutions we have had in England, the people have been headed
" by the Parliament, or the nobility and gentry that compoſed it; and,
" when the kings failed of their duties, by their own authority called it.
" The multitude therefore is not ever headleſs, but doth ever find or create
" heads unto itſelf, as occaſion doth require; and whether it be one man,
" or a few, or more, for a ſhort or a longer time, we ſee nothing more
" regular than its motions. But they may, ſaith our author, ſhake off
" the yoke. And why may they not, if it prove uneaſy or hurtful unto
" them? Why ſhould not the Iſraelites ſhake off the yoke of Pharaoh,
" Jabin, Siſera, and others that oppreſſed them?

" When pride had changed Nebuchadnezzar into a beaſt, what ſhould
" perſuade the Aſſyrians not to drive him out among beaſts, until God
" had reſtored unto him the heart of a man? When Tarquin had turned
" the legal monarchy of Rome into a moſt abominable tyranny, why
" ſhould they not aboliſh it? And when the Proteſtants of the Low-
" Countries were ſo grievouſly oppreſſed by the power of Spain, under
" the proud, cruel, and ſavage conduct of the duke of Alva, why ſhould
" they not make uſe of all the means that God had put into their hands

" for their deliverance? Let any man, who ſees the preſent ſtate of the " provinces that then united themſelves, judge whether it is better for " them to be as they are, or in the condition unto which his fury would " have reduced them, unleſs they had, to pleaſe him, renounced God and " their religion. Our author may ſay, they ought to have ſuffered; the " king of Spain, by their reſiſtance, loſt thoſe countries; and that they " ought not to have been judges in their own caſe. To which I anſwer, " That by reſiſting they laid the foundation of many churches that have " produced multitudes of men eminent in gifts and graces; and eſtabliſhed " a moſt glorious and happy commonwealth, that hath been, ſince its " firſt beginning, the ſtrongeſt pillar of the Proteſtant cauſe now in the " world, and a place of refuge unto thoſe who in all parts of Europe have " been oppreſſed for the name of Chriſt: whereas they had ſlaviſhly, " and, I think I may ſay, wickedly as well as fooliſhly, ſuffered them- " ſelves to be butchered, if they had left thoſe empty provinces under " the power of Antichriſt, where the name of God is no otherwiſe " known, than to be blaſphemed.

" If the king of Spain deſired to keep his ſubjects, he ſhould have " governed them with more juſtice and mercy. When, contrary unto " all laws, both human and divine, he ſeeks to deſtroy thoſe he ought " to have preſerved, he can blame none but himſelf, if they deliver " themſelves from his tyranny: and when the matter is brought to that, " that he muſt not reign, or they over whom he would reign muſt " periſh, the matter is eaſily decided: as if the queſtion had been " aſked in the time of Nero and Domitian, Whether they ſhould be left " at liberty to deſtroy the beſt part of the world, as they endeavoured " to do, or it ſhould be reſcued by their deſtruction? And as for the " people's being judges in their own caſe, it is plain, they ought to be " the only judges, becauſe it is their own, and only concerns themſelves."

Mr. Att. Gen. The latter end, the laſt ſheet of all, § 35.

L. C. J. The argument runs through the book, fixing the power in the people.

Clerk of the Crown. " The general revolt of a nation from its own " magiſtrates, can never be called rebellion."

Mr. Att. Gen. § 37.

Clerk of the Crown. " The power of calling and diſſolving parliaments " is not in the king."

Mr. Att. Gen. So much we ſhall make uſe of; if the Colonel pleaſe to have any other part read to explain it, he may.

Then the ſheets were ſhewn to Col. Sydney.

Col. Sydney. I do not know what to make of it, I can read it.

L. C. J. Ay, no doubt of it, better than any man here. Fix on any part you have a mind to have read.

Col. Sydney. I do not know what to ſay to it, to read it in pieces thus.

L. C. J. I perceive you have diſpoſed of them under certain heads: to what heads will you have read?

Col. Sydney. My lord, let him give an account of it that did it.

Mr. Att. Gen. My lord, we will not delay colonel Sydney from entering on his defence; only we have this piece of evidence to give further. One of his complices was my lord Ruſſel, we will give in evidence his conviction. We will only aſk my lord Howard, was your Lordſhip ſworn as a witneſs at the trial of my lord Ruſſel?

Lord Howard. Yes.

Mr. Att. Gen. Whether or no, when you met, were there in thoſe debates any reflections upon the king, that he had broken his duty?

Lord Howard. Not that I remember.

Mr. Att. Gen. Why would you riſe?

Lord Howard. If you mean upon the miſgovernment, not perſonally upon the king?

Mr. Att. Gen. Ay.

Lord Howard. Yes, and principally and chiefly that, which we thought was the general diſguſt of the nation, the impoſing upon the city at that time.

Mr. Juſt. Wythins. That was complained of at that time?

Lord Howard. Yes, my lord: we took it all along to be the chief grievance.

L. C. J. Have you any more witneſſes?

Mr. Att. Gen. Only the record.

Mr. Sol. Gen. I know there is no time miſpent to make things clear. If the jury have a mind to have the words read again——

L. C. J. If they have a mind, let it.

Then Mr. Trinder was ſworn, and teſtified it to be a true copy of the record, and ſaid he examined it at Fiſhmonger's-Hall with Mr. Tanner.

Then the record of the conviction of the lord Ruſſel was read.

L. C. J. What will you go to next, Mr. Attorney?

Mr. Sol. Gen. We have done, unleſs the jury deſire to have the words of the libel read again. [*But they did not.*]

Col. Sydney. My lord, I deſire to know upon what ſtatute I am indicted?

Mr. Att. Gen. My lord, I will give as plain an anſwer: you are indicted upon the old ſtatute of 25 E. 3.

Col. Sydney. Then I deſire to know upon what branch of that ſtatute?

Mr. Att. Gen. Why, I will acquaint you: it is upon the firſt branch of that ſtatute, for conſpiring and compaſſing the death of the king.

Col. Sydney. Then I conceive, what does not come within that, does not touch me.

Mr. Att. Gen. Make what inferences you pleaſe, Colonel, we will anſwer you.

Colonel Sydney. I deſire to know what the witneſſes have ſworn againſt me upon that point?

Mr. Att. Gen. Go on, you have heard the witneſſes as well as we.

L. C. J. He ſays, you are indicted upon the ſtatute of 25 E. 3. which ſtatute makes it high treaſon to conſpire the death of the king; and the

overt-act is ſufficiently ſet forth in the indictment; now the queſtion is, whether it is proved?

Col. Sydney. They have proved a paper found in my ſtudy of Caligula and Nero, that is compaſſing the death of the king, is it?

L. C. J. That I ſhall tell the jury. The point in law you are to take from the court, gentlemen: whether there be fact ſufficient, that is your duty to conſider.

Col. Sydney. I ſay, my lord, that ſince I am indicted upon that ſtatute, I am not to take notice of any other. I am indicted for conſpiring the death of the king, becauſe ſuch a paper is found in my houſe. Under favour, I think that can be nothing at all to me: for though ſir Philip Lloyd did aſk me, whether I would put my ſeal to it, he did not aſk me till he had been in my cloſet, and I knew not what he had put in; and ſo I told him I would not do it. Then come theſe gentlemen upon ſimilitude of hands. My lord, we know what ſimilitude of hands is in this age. One told me within theſe two days, that one came to him, and offered him to counterfeit any hand he ſhould ſhew him in half an hour. So then, my lord, I have nothing to ſay to theſe papers. Then for point of witneſs, I cannot be indicted, much leſs tried or condemned, on 25 E. 3. for by that act there muſt be two witneſſes to that very branch unto which the treaſon does relate, which muſt be diſtinguiſhed. For the levying of war, and conſpiring the death of the king, are two diſtinct things, diſtinct in nature and reaſon, and ſo diſtinguiſhed in the ſtatute. And therefore the conſpiring the death of the king is treaſon, and the other not. 1 E. 6. 12. 5 E. 6. 11. does expreſly ſay, there muſt be two witneſſes to either of theſe acts. Now here is my lord Howard (I have enough to ſay of him by and by) it is he only who ſpeaks of ſix men, whom he calls a ſelect council, and yet ſelected by no man in the world. I deſire to know who ſelected my lord Howard? Who ſelected me? If they were ſelected by no body, it is a bull to ſay they were a ſelect council. If they were not ſelected, but erected themſelves into a cabal, then they have either confidence in one another, or find they are near equally able to aſſiſt in the deſign. Here is nothing of all this: theſe ſix men were ſtrangers to one another. For my own part, I never ſpake with the duke of Monmouth above three times in my life, and one time was when my lord Howard brought him to my houſe and cozened us both. He told the duke I invited him, and he told me the duke invited himſelf; and neither of them was true. Now, that ſuch men as theſe are, not hardly knowing one another, ſhould preſently fall into a great and intimate friendſhip, and truſt and management of ſuch buſineſſes as theſe are, is a thing utterly improbable, unleſs they were mad. Now I do find in my lord Howard's depoſition againſt my lord Ruſſel, that they were in proſecution of my lord Shafteſbury's deſign; and yet he acknowledges the duke of Monmouth ſaid he was mad, and he himſelf ſaid ſo too. Now that they ſhould join with four more in the proſecution of the deſign of a madman, they muſt be mad too. Now whether my lord Howard would have you think he was mad becauſe a madman cannot be guilty of treaſon,

I cannot tell. My lord Howard in his laſt depoſition at my lord Ruſſel's trial, fixes the two meetings, one about the middle of January, the other ten days after: now he fixes one to be the latter end of January, the other the middle of February. Then he makes it to be the proſecution of my lord Shafteſbury's deſign. I do not find that any one there had any thing to do with my lord Shafteſbury: for my part I had not; I had not ſeen his face in two years. Then, my lord, that I go upon is, whatever my lord Howard is, here is but one witneſs. The law of God and the law of man, underſtood and taken by all men, does require two witneſſes*: Moſes ſays ſo; ſo the Apoſtles the ſame after him; and Chriſt ſays the ſame, that *every matter is* to be *eſtabliſhed by two witneſſes.* There ought to be two witneſſes to the ſame thing. Now for one to come and tell a tale of a tub, of an imaginary council, and another of a libel, a paper written no body knows when, is ſuch a thing, you can never go over it. But if the law of God be, that there muſt be two witneſſes to the ſame fact, there is an end of this matter. And under the judicial law, the penalty would be in this caſe, to put a man to death. Now here there are but two things, which if allowed of, no body will be ſafe for perjury. The one is, to ſuffer men to give their teſtimony, one to one thing, and another to another, that the fraud cannot be diſcovered; and the other is, to take away the puniſhment. Now the puniſhment is taken away in ſome meaſure: and do but take away the other point whereby the fraud cannot be diſcovered, and then there is no defence can be made. That both witneſſes ſhould be to the ſame point, ſee the ſtory of Suſanna. Two elders teſtified they ſaw her in the act of adultery: they were carrying of her to her death: both of them ſaid the ſame thing: until they were taken aſunder and examined, the fraud was not diſcovered; and then one ſaid, ſhe was under a tree of the right hand, and the other, under the tree on the left; and ſhe eſcaped, and they were puniſhed. But now if you apply it to ſeveral facts, my lord Howard may ſay what he pleaſes, and if another ſhall come with a ſupplemental proof, no juſtice can be had. But, my lord, I deſire this, If there be two witneſſes to prove the conſpiracy, and in that there were thoſe matters done that are treaſon, I muſt anſwer to it; but if there be not, I preſume, I need ſay nothing to it. If you do not allow it me, I deſire counſel to argue it.

L. C. J. That is a point of fact, whether there be two witneſſes? I tell you beforehand, one witneſs is not ſufficient.

* " Mr. *Pelham.* I did preſume yeſterday to tell you, that Mr. *Algernon Sydney* did " ſtand upon it as his natural right, that they could not proceed againſt him, there being " but one witneſs. I did not bring his caſe as parallel to this, nor think that his authority " ſhould influence you. *But he was a man, that had that love for Liberty and the good of his* " *Country, that he would not have ſaid ſo, even to ſave his own life, if he had thought it incon-* " *ſiſtent with either of them.* But I have looked upon his trial ſince, and there he does " declare, That the being condemned by two witneſſes is the law of God and the law of " man, the juſt law that is obſerved by all men and in all places. It is certain he reached " even by theſe words the power of Parliament: when I do ſay power, I do not mean, but " that when ſuch a law is paſſed, all are bound to obey it; *but in ſome ſenſe, we may ſay,* " *You cannot do what is not juſt for you to do: You can do but what is juſt and ſuitable to the* " *truſt repoſed in you.*"

Col. Sydney. Why then there is my lord Howard, and never another.

L. C. J. Nay, do not make thoſe inferences. I will tell the jury, if there be not two witneſſes as the law requires in this caſe, they ought to acquit you.

Col. Sydney. You confound me, I cannot ſtir. You talk of a conſpiracy; what is a conſpiracy to kill the king? Is there any more witneſſes than one for levying of war?

L. C. J. Pray do not deceive yourſelf. You muſt not think the court and you intend to enter into a dialogue. Anſwer to the fact: if there be not ſufficient fact, the jury will acquit you. Make what anſwer you can to it.

Col. Sydney. Then I ſay, There being but one witneſs, I am not to anſwer to it at all.

L. C. J. If you rely upon that, we will direct the jury preſently.

Col. Sydney. Then for levying war, what does any one ſay? My lord Howard, let him, if he pleaſe, reconcile what he hath ſaid now, with what he ſaid at my lord Ruſſel's trial. There he ſaid, he ſaid all he could; and now he has got I do not know how many things that were never ſpoken of there. I appeal to the court, whether he did then ſpeak one word of that, that he now ſays of Mr. Hambden. He ſets forth his evidence very rhetorically; but it does not become a witneſs, for he is only to tell what is done and ſaid: but he does not tell what was done and ſaid. He ſays they took upon them to conſider, but does not ſay what one man ſaid, or what one man reſolved, much leſs what I did. My lord, if theſe things are not to be diſtinguiſhed, but ſhall be jumbled all up together, I confeſs I do not know what to ſay.

L. C. J. Take what liberty you pleaſe. If you will make no defence, then we will direct the jury preſently. We will direct them in the law, and recollect matter of facts as well as we can.

Col. Sydney. Why then, my lord, I deſire the law may be reſerved to me; I deſire I may have counſel to that point of there being but one witneſs.

L. C. J. That is a point of fact. If you can give any teſtimony to diſparage the witneſs, do it.

Col. Sydney. I have a great deal to that.

L. C. J. Go on to it then.

Col. Sydney. Then, my lord, was there a war levied? Or was it prevented? Why then, if it be prevented, it is not levied; if it be not levied, it is not within the ſtatute; ſo this is nothing to me.

L. C. J. The court will have patience to hear you; but at the ſame time I think it is my duty to advertiſe you, that this is but miſpending of your time. If you can anſwer the fact, or if you have any mind to put any diſparagement upon the witneſſes, that they are not perſons to be believed, do it, but do not aſk us queſtions this way or the other.

Col. Sydney. I have this to ſay concerning my lord Howard: he hath accuſed himſelf of divers treaſons, and I do not hear that he has his pardon

pardon of any: he is under the terror of thoſe treaſons, and the puniſhment for them: he hath ſhewn himſelf to be under that terror: he hath ſaid, that he could not get his pardon until he had done ſome other jobbs, till he was paſt this drudgery of ſwearing: that is, my lord, that he having incurred the penalty of high-treaſon, he would get his own indemnity by deſtroying others. This by the law of God and man, I think, deſtroys a man's teſtimony. Beſides, my lord, he is my debtor, he owes me a conſiderable ſum of money I lent him in time of his great neceſſity: he made ſome covenants with me for the payment of that money, which he hath broken; and when his mortgage was forfeited, and I ſhould take the advantage the law gives me, he finds out a way to have me laid up in the Tower. He is a very ſubtle man. At my lord Ruſſel's trial, he carried his knife, he ſaid, between the paring and the apple; and ſo this is a point of great nicety and cunning, at one time to get his own pardon, and at the ſame time to ſave his money. Another thing, my lord, is, when I was priſoner, he comes to my houſe, and ſpeaks with my ſervant, and ſays, how ſorry he was that I ſhould be brought in danger upon this account of the plot; and there he did, in the preſence of God, with hands and eyes lifted up to Heaven, ſwear, he did not believe any plot, and that it was but a ſham; and that he was confident if I had known any thing, I would have told it him. He hath ſaid ſomewhat of this before, I have ſeveral witneſſes to prove both. He was deſirous to go further; and he would not only pay my debt by *his teſtimony* againſt me, but he would have got my plate and other goods in my hands into his hands; and he deſired my men, as a place of truſt, to put them into his hands. And the next news was, that there was a warrant againſt my lord Ruſſel and me. But then, my lord, he made other affirmations in the ſame preſence of God, that I was innocent in his opinion; and he was confident of it, for if he had known any thing of it, he would have told it. Now I know, in my lord Ruſſel's caſe, there was Dr. Burnet ſaid ſomething like it. And when he came to anſwer it, he ſaid he was to face it out, and make the beſt of it he could. Now he did face it out bravely againſt God, but he was timorous of man. So that, my lord, he does ſay at the ſame time, at my lord Ruſſel's trial, upon his oath, that he did believe that the religious obligation of an oath did not conſiſt in the formality of applying it to the place, etc. but in calling God to witneſs. So that when he did call God to witneſs before Dr. Burnet and my ſervant, and others, this is not conſiſtent with the oath he has taken here, as the gentleman ſaid at my lord Ruſſel's trial, unleſs he has one ſoul in court, and had another at my houſe: theſe things are inconſiſtent, and cannot be true; and if he ſwear both under the religion of an oath, he ſwears himſelf perjured. Then, my lord, he talks of Aaron Smith: what have I to do with Aaron Smith? He ſays I ſent him. My lord, there is no body elſe ſpeaks a word of it. Then, by a ſtrange kind of conſtruction and imagination, they will have it, that ſome papers here, which are ſaid to be found in my ſtudy, have relation to this plot, as

they

they call it; I know of none nor am in none. Now, my lord, I am not to give an account of theſe papers, I do not think they are before you, for there is nothing but the ſimilitude of hands offered for proof. There is the like caſe of my lady Carr ſome few years ago, ſhe was indicted of perjury, and, as evidence againſt her, ſome letters of hers were produced, that were contrary to what ſhe ſwore in Chancery, and her hand was proved; that is to ſay, it was like it: but my lord chief juſtice Keiling directs the jury, that though in civil cauſes it is a proof, yet it is the ſmalleſt and leaſt of proofs; but in criminal caſes it was none at all. So that my lord Howard's teſtimony is ſingle; and what he talks of thoſe two buſineſſes, that he calls a conſult, and Aaron Smith, is deſtroyed by want of proof. What could ſix men do? Can my lord Howard raiſe five men by his credit? by his purſe? Let him ſay as much for me, with all my heart; for my part I do not know where to raiſe five men. That ſuch men as we are, that have no followers, ſhould undertake ſo vaſt a deſign, is very unlikely: and this great deſign that was carried on thus, it had neither officers nor ſoldiers, no place, no time, no money for it. That which he ſaid laſt time, which he forgot now: he talked of twenty five or thirty thouſand pound; but no man knew where it was to be had: but laſt time he ſaid, it was ſpoken in jeſt. Now this is a pretty cabal, that ſix men ſhould meet about a buſineſs, and they neglect every one of the points relating to the thing they met about, make no ſtep about the buſineſs, and if any one did ſpeak of it, it was but in jeſt. This is a very deep maintaining of the plot. Then, my lord, as to theſe papers, I do not think, I am to give any account of them: I would ſay nothing to the diſparagement of ſir Philip Lloyd, I never ſaw him till he came to my houſe: but yet I ſay, he is the king's officer, and when I am proſecuted at the king's ſuit, I think he ought to be no witneſs. The government of France is violent and abſolute; but yet, a few years ago, a miniſter of ſtate had his papers taken from him, and abundance of them had dangerous plots againſt the king in them; but becauſe they were inventoried in his officer's preſence, or thoſe deputed by him, there was no uſe could be made of them; it was an irreparable fault in the proceſs, and that ſaved him. The ſimilitude of hands is nothing: we know that hands will be counterfeited, ſo that no man ſhall know his own hand. A gentleman that is now dead told me, that my lord Arlington, about five years ago, deſired him to write a letter, and ſeal it as well as he could. He wrote it with care, and ſealed it with a wafer and wax upon it; and within a few days my lord Arlington brought him five letters, and he did not know which was his own. The attorney ſhews theſe papers to me, I do not know whether they are my own, or no; but theſe very papers, ſuch as they are, do abhor as much, as any one can, ſuch a deſign. Look upon them, you ſee they are all old ink. Theſe papers may be writ perhaps theſe twenty years, the ink is ſo old. But, my lord, it is a polemical diſcourſe, it ſeems to be an anſwer to Filmer, which is not calculated for any particular government in the world, it goes only upon

upon theſe general principles, That according to the univerſal law of God and nature there is but one government in the world, and that is entire and abſolute, and that the king can be bound by no law, by no oath, but he may make all laws, and aboliſh them as he pleaſes: and this whether of age or no, a man, or a child, of ſenſe, or out of his ſenſe. Now, my lord, what if any man in his cabinet ſhould have written this book? Then he has another principle, he ſays, it is the ſame thing whether a king come in by election, by donation, by inheritance or uſurpation, or any other way; than which, I think, never was a thing more deſperately ſaid. Cromwell, when one White a prieſt wrote a book *, wherein he undertook to prove, *That poſſeſſion was the only right to power*, though he was a tyrant, and a violent one †, (you need not wonder I call him tyrant, I did ſo every day in his life, and acted againſt him too) it would be ſo odious a principle, he could not endure it, and uſed him very ſlightly for it. Now this Filmer, that no man muſt write againſt, is the man that does aſſert it, That it is no matter how they come by their power; and gives the ſame power to the worſt uſurpers, as they that moſt rightly come to the crown. By the ſame argument, if the arranteſt raſcal of Iſrael had killed Moſes, David, etc. and ſeized upon the power, he had been poſſeſſed of that power, and been father of the people. If this be doctrine, my lord, that is juſt and good, then I confeſs it may be dangerous for any thing that may be found in a man's houſe contrary to it; but if a commoner of England *write his preſent thoughts*, and another man upon looking on his book, write his preſent thoughts of

* The title of the book (a curious one too, the above notwithſtanding) is, *The Grounds of obedience and government. By Thomas White, Gentleman.* [A ſecular Romiſh prieſt.]

There are two editions of it. The ſecond edition was printed, *London*, 1655, in 16to. The Motto to the title is, *Salus populi ſuprema lex.* See many circumſtances relating to this learned able writer, and his works, in A. Wood's Athenae Oxonienſes, and Biſhop Kennet's Hiſt. regiſter.

[† *Milton* had held out the BEACON to him in his Sonnet. "To the *Lord General* "Cromwell," *May*, 1651; before he deſtroyed the Parliament, and, by Authority of the Army, ſet up *Tyrant*, for himſelf.

Cromwell, our chief of men, that through a croud,
Not of war only, but detractions rude,
Guided by faith and matchleſs fortitude,
To peace and truth thy glorious way haſt plough'd,
And fought God's battles, and his work purſu'd;
While *Darwent* ſtreams with blood of *Scots* imbru'd,
And *Dunbar* field reſound thy praiſes loud,
And *Worc'ſter*'s laureat wreath. *Yet much remains*
To conquer ſtill; peace hath her victories
No leſs than thoſe of war. New foes ariſe
Threat'ning to bind our ſouls in ſecular chains:
Help us to ſave free conſcience from the paw
Of hireling wolves, whoſe goſpel is their maw.

And in his *Defenſio ſecunda*, he threw it out, *nobly*, a ſecond time, in the following beautiful addreſs to *Cromwell*, then *ſelf-made* protector. "Tu igitur, *Cromuelle*, magnitudine illâ animi macte eſto; te enim decet; tu patriae liberator, libertatis auctor, cuſtoſque idem et

of it, what great hurt is there in it? And I aſk Mr. Attorney, how many years ago that was written?

L. C. J. I do not know what the book was in anſwer to. We are not to ſpeak of any book that Sir Robert Filmer wrote; but you are to make your defence touching a book that was found in your ſtudy, and ſpend not your time, and the court's time, in that which ſerves to no other purpoſe, than to gratify a luxuriant way of talking that you have. We have nothing to do with his book; you had as good tell me again, that there was a parcel of people rambling about, pretending to my lord Ruſſel's ghoſt, and ſo we may anſwer all the comedies in England. Anſwer to the matter you are indicted for. Do you own that paper?

Col. Sydney. No, my lord.

L. C. J. Go on then. It does not become us to be impatient to hear you, but we ought to advertiſe you, that you ſpend not your time to no purpoſe, and do yourſelf an injury.

Col. Sydney. I ſay, firſt, it is not proved upon me: and ſecondly, it is not a crime if it be proved——

L. C. J. You began very materially in one thing: it is material for you to apply yourſelf to take off the credibility of my lord Howard that is a witneſs; call your witneſſes to that purpoſe, or if you have any other point to take away the credibility of any other witneſs.

Col. Sydney. My lord, I have ſeven or eight points of law.

L. C. J. I hear not one yet.

et conſervator, neque graviorem perſonam, neque auguſtiorem, ſuſcipere potes aliam; qui non modò regum res geſtas, ſed Heroum quoque noſtrorum fabulas factis exuperaſti. Cogita ſaepiùs quàm caram rem, ab quàm cara parente tua, libertatem à patriâ tibi commendatam atque concreditam, apud te depoſitam habes: quod ab electiſſimis gentis univerſae viris, illa modò expectabat, id nunc à te uno expectat, per te unum conſequi ſperat: *Reverere tantam de te expectationem*, ſpem patriae de te unicam; *reverere vultus et vulnera tot fortium virorum, quotquot, te duce, pro libertate, tam ſtrenuè decertârunt; manes etiam eorum, qui in ipſo certamine occubuerunt: reverere exterarum quoque civitatum exiſtimationem de nobis atque ſermones; quantas res de libertate noſtrâ, tam fortiter partâ, de noſtrâ Republicâ, tam gloriosè exortâ ſibi polliceantur: quae ſi tam citò quaſi aborta evanuerit, profectò nihil aequè dedecoroſum huic genti, atque pudendum fuerit: teipſum denique reverere*, ut pro quâ adipiſcendâ libertate, tot aerumnas pertuliſti, tot pericula adiiſti, eam adeptus, violatam per te, aut ullâ in parte imminutam aliis, ne ſinas eſſe. Profectò tu ipſe liber ſine nobis eſſe non potes; ſic enim naturâ comparatum eſt, ut qui aliorum libertatem occupat, ſuam ipſe primus omnium amittat; ſéque primum omnium intelligat ſervire: atque id quidem non injuriâ. *At verò, ſi patronus ipſe libertatis, et quaſi tutelaris deus, ſi is, quo nemo juſtior, nemo ſanctior eſt habitus, nemo vir melior, quam vindicavit ipſe, eam poſtmodùm invaſerit, id non ipſi tantùm, ſed univerſae virtutis ac pietatis rationi perniciosum ac lethale propemòdùm ſit neceſſe eſt: ipſa honeſtas, ipſa virtus decoxiſſe videbitur, religionis auguſta fides, exiſtimatio perexigua in poſterum erit, quo gravius generi humano vulnus, poſt illud primum, infligi nullum poterit.*"

The ſame afterwards did *Harrington* in his *Oceana*; and though more covertly, according to his plan, yet like an *Engliſhman* and a *Gentleman*. The title of his book is, "The Commonwealth of Oceana. Dedicated to his Highneſſe the Lord Protector of the Commonwealth of England, Scotland, and Ireland. [*Which makes the whole Dedication.*] By James Harrington. London printed 1656"—in folio. *Cromwell*, after the peruſal of the book ſaid, "The Gentleman had like to trepan him out of his power; but that what he "got by the ſword, he would not quit for a little paper ſhot" etc. As ſee in the life of *Harrington*, with divers ſingular obſervations on that ſpeech.

Col. Sydney. Why, my lord, conſpiring to levy war is not treaſon, and I deſire to have counſel upon that.

L. C. J. It is not a queſtion. You had as good aſk me, whether the firſt chapter in Littleton be law?

Col. Sydney. My lord, I have neither made war, nor conſpired to levy war.

L. C. J. You are ſtill in a miſtake: you ſhall not think that we intend to dialogue with you, to let you know how far the proof hath been given or not given; but when we come to direct the Jury, then we ſhall obſerve how far the law requires there ſhould be two witneſſes. But whether there be ſuch a proof, that muſt be left to the jury.

Mr. J. Wythins. If you agree to the conſpiracy, I will tell you my mind of it: I cannot give you my opinion in law, till the fact be ſtated.

L. C. J. The law always ariſes upon a point of fact; there can be no doubt in point of law, till there be a ſettlement in point of fact.

Mr. J. Holloway. My lord has put you in a right way: the conſpiracy is proved but by one witneſs, if you have any thing to take off his credibility, it is to the purpoſe.

Col. Sydney. Truly, my lord, I do as little intend to miſpend my own ſpirit, and your time, as ever any man that came before you. Now, my lord, if you will make a concatenation of one thing, a ſuppoſition upon ſuppoſition, I would take all this aſunder, and ſhew, if none of theſe things are any thing in themſelves, there can be nothing joined together.

L. C. J. Take your own method, Mr. *Sydney*; but I ſay, if you are a man of low ſpirits and weak body, it is a duty incumbent upon the court, to exhort you not to ſpend your time upon things that are not material.

Col. Sydney. My lord, I think it is very material that a whimſical imagination of a conſpiracy ſhould not paſs for a real conſpiracy of the death of the king: beſides, if theſe papers were found in my houſe, it is a crime created ſince my impriſonment, and that cannot come in, for they were found ſince. My lord, if theſe papers are right, it mentions two hundred and odd ſheets, and theſe ſhew neither beginning nor ending; and will you, my lord, indict a man for treaſon for ſcraps of paper, found in his houſe relating to an ancient paper, intended as innocently as any thing in the world, and piece and patch this to my lord *Howard*'s diſcourſe, to make this a contrivance to kill the king. Then, my lord, I think it is a right of mankind, and it is exerciſed by all ſtudious men, that they write in their own cloſets what they pleaſe for their own memory, and no man can be anſwerable for it, unleſs they publiſh it.

L. C. J. Pray do not go away with that right of mankind, that it is lawful for me to write what I will in my own cloſet, unleſs I publiſh it. I have been told, Curſe not the king, not in thy thoughts, not in thy bed-chamber, the birds of the air will carry it. I took it to be the duty of mankind, to obſerve that,

Col. Sydney. I have lived under the inquiſition——

L. C. J. God be thanked, we are governed by law.

Col. Sydney. I have lived under the inquiſition, and there is no man in Spain can be tried for hereſy——

Mr. J. Wythins. Draw no precedents from the inquiſition, here, I beſeech you, Sir.

L. C. J. We muſt not endure men to talk, that by the right of nature every one may contrive miſchief in his own chamber, and he is not to be puniſhed till he thinks fit to be called to it.

Col. Sydney. My Lord, if you will take Scripture by pieces, you will make all the penmen of the Scripture blaſphemous; you may accuſe David, of ſaying, There is no God; and accuſe the Evangeliſts of ſaying, Chriſt was a blaſphemer and a ſeducer; and the apoſtles, that they were drunk.

L. C. J. Look you, Mr. Sydney, if there be any part of it that explains the ſenſe of it, you ſhall have it read; indeed we are trifled with a little. It is true, in ſcripture, it is ſaid, "There is no God," and you muſt not take that alone, but you muſt ſay, "The fool hath ſaid in his "heart, There is no God." Now here is a thing imputed to you in the libel; if you can ſay, there is any part that is in excuſe of it, call for it. As for the purpoſe, whoſoever does publiſh, that the king may be put in chains or depoſed, is a traitor; but whoſoever ſays, that none but traitors would put the king in chains or depoſe him, is an honeſt man; therefore apply *ad idem*, but do not let us make excurſions.

Col. Sydney. If they will produce the whole, my lord, then I can ſee whether one part contradicts another.

L. C. J. Well, if you have any witneſſes call them.

Col. Sydney. The earl of Angleſey.

L. C. J. Ay, in God's name, ſtay till to morrow in things that are pertinent.

Col. Sydney. I deſire to know of my lord Angleſey, what my lord Howard ſaid to him concerning the plot that was broken out.

Lord Angleſey. Concerning this plot you are now queſtioned for?

Col. Sydney. The plot for which my lord Ruſſel and I was in priſon.

Lord Angleſey. The queſtion I am aſked, is, what my lord Howard ſaid before the trial of my lord Ruſſel, concerning the plot; I ſuppoſe, this goes as a branch of that he was accuſed for. I was then in the country, when the buſineſs was on foot, and uſed to come to town a day or two in the week, living near in Hertfordſhire; and I underſtanding the affliction my lord of Bedford was in, I went to give my lord a viſit, we having been acquaintance of above fifty years ſtanding, and bred together in Maudlin College in Oxford. When I came to my lord of Bedford, and had adminiſtred that comfort that was fit for one Chriſtian to give another in that diſtreſs, I was ready to leave him, and my lord Howard came in. It was upon the Friday before my lord Howard was taken, he was taken (as I take it) upon Sunday or Monday. My lord

Howard fell into the ſame chriſtian office that I had been juſt diſcharging, to compaſſionate my lord's affliction, to uſe arguments to comfort and ſupport him under it, and told him, he was not to be troubled, for he had a diſcreet, a wiſe, and a virtuous ſon, and he could not be in any ſuch plot, (I think this was the word he uſed at firſt, though he gave another name to it afterwards) and his lordſhip might therefore well expect a good iſſue of that buſineſs, and he might believe his ſon ſecure, for he believed he was neither guilty, nor ſo much as to be ſuſpected. My lord proceeded further, and did ſay, that he knew of no ſuch barbarous deſign (I think he called it ſo in the ſecond place) and could not charge my lord Ruſſel with it, nor any body elſe. This was the effect of what my lord Howard ſaid at that time, and I have nothing to ſay of my own knowledge more than this; but to obſerve that I was preſent when the jury did put my lord Howard particularly to it; "What have you to ſay to what my lord Angleſey teſtifies againſt you?" My lord, I think, did in three ſeveral places give a ſhort account of himſelf, and ſaid it was very true; and gave them ſome further account why he ſaid it, and ſaid, he ſhould be very glad it might have been advantageous to my lord Ruſſel.

Col. Sydney. My Lord of Clare. I deſire to know of my lord of Clare, what my lord Howard ſaid concerning this plot and me.

Lord Clare. My lord, a little after Colonel Sydney was taken, ſpeaking of the times, he ſaid, that *if ever he was queſtioned again*, he would never plead; the quickeſt diſpatch was the beſt; he was ſure they would have his life, though he was never ſo innocent: and diſcourſing of the late primate of Armagh's prophecy, For my part, ſays he, I think the perſecution is begun, and I believe it will be very ſharp; but I hope it will be ſhort: and I ſaid, I hoped ſo too.

Mr. Att. Gen. What anſwer did your lordſhip give to it?

Lord Clare. I have told you what I know: my lord is too full of diſcourſe for me to anſwer all he ſays; but for Colonel Sydney, he did with great aſſeverations aſſert, that he was as innocent as any man breathing, and uſed great encomiums in his praiſe, and then he ſeemed to bemoan his misfortune; which I thought real, for never was any man more engaged to another, than he was to Colonel Sydney, I believe. Then I told, they talked of papers that were found, I ſure, ſays he, they can make nothing of any papers of his.

Mr. Att. Gen. When was this?

Lord Clare. This was at my houſe the beginning of July.

Mr. Att. Gen. How long before my lord Howard was taken?

Lord Clare. About a week before.

Mr. Att. Gen. I would aſk you, my lord, upon your honour, would not any man have ſaid as much, that had been in the plot?

Lord Clare. I cannot tell, I know of no plot.

Col. Sydney. Mr. Philip Howard.

Mr. Juſt. Wythins. What do you aſk him?

Col. Sydney. What you heard my lord Howard ſay concerning this pretended plot, or my being in it?

Mr. Phil. Howard. My lord, when the plot firſt brake out, I uſed to meet my lord Howard very often at my brother's houſe, and coming one day from Whitehall, he aſked me, What news? I told him, My lord, ſays I, there are abundance of people that have confeſſed the horrid deſign of murthering the king, and the duke. How, ſays he, is ſuch a thing poſſible? Says I, It is ſo, they have all confeſſed it. Says he, Do you know any of their names? Yes, ſays I, I have heard their names. What are their names? ſays he. Why, ſays I, Colonel Romſey, and Mr. Weſt, and one Walcott and others, that are in the proclamation (I cannot tell whether Walcott was in hold.) Says he, It is impoſſible ſuch a thing can be, ſays he: there are in all countries people that wiſh ill to the government, and, ſays he, I believe there are ſome here; but, ſays he, for any man of honour, intereſt, or eſtate, to go about it, is wholly impoſſible. Says I, My lord, ſo it is, and I believe it. Says I, My lord, do you know any of theſe people? No, ſays he, none of them, only one day, ſays he, paſſing through the Exchange, a man ſaluted me, with a blemiſh upon his eye, and he embraced me, and wiſhed me all happineſs: ſays he, I could not call to mind who this man was: but afterwards, I recollected myſelf, that I met him at my lord Shafteſbury's, and heard afterwards, and concluded his name to be——his at whoſe houſe the king was to be aſſaſſinated——

Mr. Att. Gen. Rombald.

Mr. Howard. Ay, Rombald. My Lord, may I aſk, if my lord Howard be here?

L. C. J. He is there behind you.

Mr. Howard. Then he will hear me. My lord, ſays I, what does your lordſhip think of this buſineſs? Says he, I am in a maze. Says I, If you will be ruled by me, you have a good opportunity to addreſs to the king, and all the diſcontented lords, as they are called; and to ſhew your deteſtation and abhorrence of this thing; for, ſays I, this will be a good means to reconcile all things. Says he, You have put one of the beſt notions in my head that ever was put. Says I, You are a very good penman, draw up the firſt addreſs (and I believe, I was the firſt that mentioned an addreſs, you have had many an one ſince, God ſend them good ſucceſs.) Says he, I am ſorry my Lord of Eſſex is out of town, he ſhould preſent it. But, ſays I, here is my lord Ruſſel, my lord of Bedford, my lord of Clare, all of you that are diſaffected, and ſo accounted, go about this buſineſs, and make the nation happy, and king happy. Says he, Will you ſtay till I come back? Ay, ſays I, if you will come in any time; but he never came back while I was there. The next day, I think, my lord Ruſſel was taken, and I came and found him at my brother's houſe again (for there he was day and night.) Says he, Couſin, what news? Says I, My lord Ruſſel is ſent to the Tower. We are all undone then, ſays he. Pray, ſays he, go to my lord Privy-ſeal, and ſee if you can

can find I am to be taken up: ſays he, I doubt it is a ſham-plot; if it was a true plot, I ſhould fear nothing. Says I, What do you put me to go to lord Privy-ſeal for? He is one of the king's cabinet council; do you think he will tell me? I will not go; but, ſays I, if you are not guilty, why would you have me go to inquire? Why, ſays he, becauſe I fear it is not a true plot, but a plot made upon us, and therefore, ſays he, there is no man free. My lord, I can ſay no more as to that time, (and there is no man that ſits here, that wiſhes the king better than I do.) The next thing I come to, is this, I came the third day, and he was mighty ſad and melancholy, that was when colonel Sydney was taken: ſays I, Why are you melancholy, becauſe colonel Sydney is taken? Says I, Colonel Sydney was a man talked of before; why, you were not troubled for my lord Ruſſel that is of your blood. Says he, I have that particular obligation from colonel Sydney, that no one man had from another. I have one thing to ſay farther, I pray I may be rightly underſtood in what I have ſaid.

L. C. J. What, you would have us undertake for all the people that hear you? I think you have ſpoken very materially, and I will obſerve it by and by to the jury.

Col. Sydney. Pray call doctor Burnet.

Mr. Juſt. Walcott. What do you aſk doctor Burnet?

Col. Sydney. I have only to aſk doctor Burnet, whether, after the news of this pretended plot, my lord Howard came to him? And what he ſaid to him?

Dr. Burnet. My lord, the day after this plot brake out, my lord Howard came to ſee me, and upon ſome diſcourſe of the plot, with hands and eyes lifted up to heaven he proteſted he knew nothing of any plot, and believed nothing of it, and ſaid, that he looked upon it as a ridiculous thing.

[*My Lord Pagett was ſent for at the priſoner's requeſt, being in the Hall.*]

Col. Sydney. My lord, I deſire Joſeph Ducas may be called, [*who appeared, being a Frenchman.*]

Col. Sydney. I deſire to know, whether he was not in my houſe when my lord Howard came thither, a little after I was made a priſoner, and what he ſaid upon it?

Ducas. Yes. My lord, my lord Howard came the day after the colonel Sydney was taken, and he aſked me, where was the colonel Sydney? and I ſaid, he was taken, by an order of the king. And he ſaid, Oh Lord! what is that for? I ſaid, They have taken papers. He ſaid, Are ſome papers left? Yes. Have they taken ſomething more? No. Well, you muſt take all the things out of the houſe, and carry them to ſome you can truſt. I dare truſt no body. Says he, I will lend my coach and coach-man. I ſaid, if the colonel Sydney will ſave his goods, he ſave them; if not, it is no matter. A little after the lord Howard came in the houſe of colonel Sydney about eleven a clock at night. When he was in, I told him, What is this? They talk of a plot to kill the king and the duke; and I told him, they ſpake of one general inſurrection;

and I told him more, that I underſtood that colonel Sydney was ſent into Scotland. When my lord Howard underſtood that, he ſaid, God knows, I know nothing of this, and I am ſure if the colonel Sydney was concerned in the matter, he would tell me ſomething, but I know nothing. Well, my lord, I told him, I believe you are not ſafe in this houſe, there is more danger here than in another place. Says he, I have been a priſoner, and I had rather do any thing in the world than be a priſoner again.

[Then my lord Pagett came into the court.]

Col. Sydney. Pray, my lord, be pleaſed to tell the court, if my lord Howard has ſaid any thing to you concerning this late pretended plot, or my being any party in it.

Lord Pagett. My lord, I was ſubpœna'd to come hither, and did not know upon what account. I am obliged to ſay, my lord Howard was with me preſently after the breaking out of this plot, and before his appearing in that part which he now acts, he came to me; and I told him, that I was glad to ſee him abroad, and that he was not concerned in this diſorder. He ſaid, he had joy from ſeveral concerning it, and he took it as an injury to him, for that it looked as if he were guilty. He ſaid, he knew nothing of himſelf, nor any body elſe. And though he was free in diſcourſe, and free to go into any company indifferently; yet he ſaid, he had not ſeen any body that could ſay any thing of him, or give him occaſion to ſay any thing of any body elſe.

Col. Sydney. Mr. Edward Howard.

Mr. Ed. Howard. Mr. Sydney, what have you to ſay to me?

Col. Sydney. My lord, I deſire you would aſk Mr. Edward Howard the ſame thing, what diſcourſe he had with my lord Howard about this plot?

L. C. J. Mr. Howard, Mr. Sydney deſires you to tell what diſcourſe you had with my lord Howard about this plot.

Mr. Howard. My lord, I have been for ſome time very intimate with my lord, not only upon the account of our alliance, but upon a ſtrict intimacy and correſpondence of friendſhip, and, I think, I was as much his as he could expect from that alliance. I did move him during this time, to ſerve the king upon the moſt honourable account I could, but that proved ineffectual: I paſs that, and come to the buſineſs here. As ſoon as the plot brake out, my lord having a great intimacy with me, expreſſed a great deteſtation and ſurpriſing in himſelf to hear of it, wherein my lord Howard aſſured me, under very great aſſeverations, that he could neither accuſe himſelf, nor no man living. He told me moreover, that there were certain perſons of quality whom he was very much concerned for, that they ſhould be ſo much reflected upon or troubled, and he condoled very much their condition both before and after they were taken. My lord, I believe in my conſcience, he did this without any mental reſervation, or equivocation, for he had no reaſon to do it with me. I add moreover, if I have any ſenſe of my lord's diſpoſition, I think if he had known any ſuch thing, he would not have ſtood his being taken, or made

made his application to the king in this manner, I am afraid not ſo ſuitable to his quality.

L. C. J. No reflections upon any body.

Mr. Howard. My lord, I reflect upon no body, I underſtand where I am, and have a reſpect for the place; but ſince your lordſhip has given me this occaſion, I muſt needs ſay, that that reproof that was accidentally given me, at the trial of my lord Ruſſel, by reaſon of a weak memory, made me omit ſome particulars I will ſpeak now, which are theſe, and I think they are material: my lord upon the diſcourſe of this plot did further aſſure me, that it was certainly a ſham, even to his knowledge. How, my lord, ſays I, do you mean a ſham? Why, ſays he, ſuch an one, couſin, as is too black for any miniſter of public employment to have deviſed: but, ſays he, it was forged by people in the dark, ſuch as *jeſuits* and *papiſts*; and, ſays he, this is my conſcience. Says I, My lord, if you are ſure of this thing, then pray, my lord, do that honourable thing that becomes your quality, that is, give the king ſatisfaction as becomes you; pray make an addreſs under your hand to the king, whereby you expreſs your deteſtation and abhorrence of this thing. Says he, I thank you for your council: to what miniſter, ſays he, ſhall I apply myſelf? I pitched upon my lord Halifax, and I told him of my lord's deſire, and I remember my lord Howard named the duke of Monmouth, my lord of Bedford, the earl of Clare, and he ſaid he was ſure they would do it; that he was ſure of their innocence, and would be glad of the occaſion: and I went to my lord Halifax, and told him that my lord was willing to ſet it under his hand, his deteſtation of this plot, and that there was no ſuch thing to his knowledge. My lord Halifax very worthily received me; ſays he, I will introduce it. But my lord Ruſſel being taken, this was laid aſide, and my lord gave this reaſon. For, ſays he, there will be ſo many people taken, they will be hindered. I muſt needs add from my conſcience, and from my heart before God and man, that if my lord had ſpoken before the king, ſitting upon his throne, abating for the ſolemnity of the preſence I could not have more believed him, from that aſſurance he had in me. And I am ſure from what I have ſaid, if I had the honour to be of this gentleman's jury, I would not believe him.

L. C. J. That muſt not be ſuffered.

Mr. Att. Gen. You ought to be bound to your good behaviour for that.

L. C. J. The jury are bound by their oaths to go according to their evidence, they are not to go by men's conjectures.

Mr. Howard. May I go, my lord?

Mr. Att. Gen. My lord Howard deſires he may ſtay: we ſhall make uſe of him.

Col. Sydney. My lord, I ſpake of a mortgage that I had of my lord Howard; I do not know whether it is needful to be proved; but it is ſo.

Lord Howard. I confeſs it.

Col. Sydney. Then, my lord, here is the other point; he is under the fear, that he dare not but ſay what he thinks will conduce towards the gaining his pardon; and that he hath expreſſed, that he could not have his pardon, but he muſt firſt do this drudgery of ſwearing. I need not ſay, that his ſon ſhould ſay, that he was ſorry his father could not get his pardon unleſs he did ſwear againſt ~~ſome~~ others.

Col. Sydney. Call Mr. Blake [*who appeared.*] My lord, I deſire he may be aſked, whether my lord Howard did not tell him that he could not get his pardon yet, and he could aſcribe it to nothing, but that the drudgery of ſwearing muſt be over firſt.

Then my Lord Chief Juſtice aſked the queſtion.

Mr. Blake. My lord, I am very ſorry I ſhould be called to give a public account of a private converſation. How it comes about I do not know. My lord ſent for me about ſix weeks ago, to come and ſee him. I went, and we talked of news. I told him I heard no body had their pardon but he that firſt diſcovered the plot. He told me no, but he had his warrant for it: and, ſays he, I have their word and honour for it, but, ſays he, I will do nothing in it till I have further order; and, ſays he, I hear nothing of it, and I can aſcribe it to no other reaſon, but I muſt not have my pardon till the drudgery of ſwearing is over. Theſe words my lord ſaid, I believe my lord will not deny it.

Then Mr. Sydney called Mr. Hunt and Burroughs, but they did not appear.

Col. Sydney. It is a hard caſe they do not appear: one of them was to prove that my lord Howard ſaid he could not have his pardon till he had done ſome other jobs.

L. C. J. I cannot help it; if you had come for aſſiſtance from the court I would willingly have done what I could.

Then Col. Sydney mentioned the duke of Buckingham, but he was informed he was not ſubpœna'd.

Col. Sydney. Call Grace Tracy and Elizabeth Penwick [*who appeared.*] I aſk you only, what my lord Howard ſaid to you at my houſe concerning the plot, and my being in it?

Tracy. Sir, he ſaid that he knew nothing of a plot, he proteſted, and he was ſure Colonel Sydney knew nothing of it. And he ſaid, if you knew any thing of it, he muſt needs know of it, for he knew as much of your concerns as any one in the world.

Col. Sydney. Did he take God to witneſs upon it?

Tracy. Yes.

Col. Sydney. Did he deſire my plate at my houſe?

Tracy. I cannot tell that: he ſaid the goods might be ſent to his houſe.

Col. Sydney. Penwick, what did my lord Howard ſay in your hearing concerning the pretended plot, or my plate carrying away?

Penwick. When he came he aſked for your honour; and they ſaid your honour was taken away by a man to the Tower for the plot; and then he took God to witneſs he knew nothing of it, and believed your

honour did not neither. He ſaid he was in the Tower two years ago, and your honour, he believed, ſaved his life.

Col. Sydney. Did he deſire the plate?

Penwick. Yes, and ſaid it ſhould be ſent to his houſe to be ſecured. He ſaid it was only malice.

Mr. Wharton ſtood up.

Mr. Wharton. It is only this I have to ſay, that if your lordſhip pleaſes to ſhew me any of theſe ſheets of paper, I will undertake to imitate them in a little time that you ſhall not know which is which. It is the eaſieſt hand that ever I ſaw in my life.

Mr. Att. Gen. You did not write theſe, Mr. Wharton?

Mr. Wharton. No, but I will do this in a very little time if you pleaſe.

L. C. J. Have you any more witneſſes?

Col. Sydney. No, my lord.

L. C. J. Then apply yourſelf to the jury.

Col. Sydney. Then this is that I have to ſay. Here is a huge complication of crimes laid to my charge. I did not know at firſt under what ſtatute they were, now I find it is the ſtatute of 25 Ed. 3. This ſtatute hath two branches; one relating to war, the other to the perſon of the king. That relating to the perſon of the king, makes the conſpiring, imagining, and compaſſing his death, criminal. That concerning war, is not unleſs it be levied: now, my lord, I cannot imagine to which of theſe they refer my crime; and I did deſire your lordſhip to explain it. For to ſay that a man did meet to conſpire the king's death, and he that gives you the account of the buſineſs does not ſpeak one word of it, ſeems extravagant; for conſpiracies have ever their denomination from that point to which they tend; as a conſpiracy to make falſe coin infers inſtruments and the like. A conſpiracy to take away a woman; to kill, or rob, are all directed to that end. So conſpiring to kill the king, muſt immediately aim at killing the king. The king hath two capacities, natural and politic: that which is the politic cannot be within the ſtatute; in that ſenſe he never dies; and it is abſurd to ſay it ſhould be a fault to kill the king that cannot die. So then it muſt be the natural ſenſe it muſt be underſtood in, which muſt be done by ſword, by piſtol, or any other way. Now if there be not one word of this, then that is utterly at an end, though the witneſs had been good.

The next point is concerning levying of war. Levying of war is made treaſon there, ſo it be proved by overt-act: but an overt-act of that never was, or can be, pretended here. If the war be not levied, it is not within the act; for conſpiring to levy war is not in the act. My lord, there is no man that thinks that I would kill the king, that knows me; I am not a man to have ſuch a deſign; perhaps I may ſay I have ſaved his life once. So that it muſt be by implication, that is, it is firſt imagined that I intended to raiſe a war, and then it is imagined that war ſhould tend to the deſtruction of the king. Now I know that may

follow

follow; but that is not natural or neceſſary: and being not natural or neceſſary, it cannot be ſo underſtood by the law. That it is not, is plain; for many wars have been made, and the death of the king has not followed. David made war upon Saul, yet no body will ſay he ſought his death: he had him under his power and did not kill him. David made war upon Iſhboſheth, yet did not deſign his death: and ſo, in England and France, kings have been taken priſoners, but they did not kill them. King Stephen was taken priſoner, but they did not kill him. So that it is two *diſtinct* things, to make war, and to endeavour to kill the king. Now as there is no manner of pretence that I ſhould endeavour to kill the king directly, ſo it cannot be by inference, becauſe it is treaſon under another ſpecies. I confeſs I am not fit to argue theſe points; I think I ought to have counſel: but if you will not allow it me, I cannot help it: but theſe things are impoſſible to be jumbled up together. Now I ſay this, if I am not under the firſt branch, if not directly I cannot be by implication; though I did make war, I cannot be ſaid to conſpire the death of the king, becauſe it is a diſtinct ſpecies of treaſon; and my lord Coke ſays, it is the overthrow of all juſtice to confound *membra dividentia*. Now if the making of war cannot be underſtood to be a conſpiring the death of the king, then I am not guilty of this indictment: but here, my lord, is neither conſpiring the death of the king, nor making war, nor conſpiring to make war. Beſides, I ſay, it is not the beſt man's evidence here would be good in this caſe, becauſe the law requires two.

The next thing is the buſineſs of Aaron Smith, which, my lord, tells ſo imperfectly, and ſo merely conjectural, that there is nothing in it, but his rhetorick in ſetting it out. He tells you of a letter ſent with him; but he does not tell you by whom writ, what was in it, or whether it was delivered or no: ſo that I think we may lay that aſide as the other, as things nothing in them at all. Then ſays Mr. Attorney, theſe Scotch gentlemen are come to town. I profeſs I never heard the names of one of them till he named them to me in the Tower. I have not ſent myſelf, nor writ, a letter into Scotland never ſince the year 59; nor do I know one man in Scotland to whom I can write, or from whom I ever received one. I returned into England in the year 77, and ſince that time have not writ nor received a letter from Scotland. Then, ſome gentlemen came hither. What is that to me? I never ſaw one of the Campbells in my life, nor Monro. If any one can prove I have had communication with them, I will be glad to ſuffer.

Then here are papers: if any thing is to be made of them, you muſt produce the whole, for it is impoſſible to make any thing of a part of them. You aſk me, what other paſſage I would have read? I do not know a paſſage in them, I cannot tell whether it be good or bad. But if there are any papers found (it is a great doubt whether they were found in my ſtudy or no, or whether they be not counterfeit; but though that be admitted that they were found in my houſe) the hand is ſuch that it ſhews they have been writ very many years. Then that which ſeems to

be an account of the ſections and chapters, that is but a ſcrap; and what if any body had, my lord, either in my own hand or another's found papers that are not well juſtifiable, is this treaſon? Does this imagine the death of the king? If any man can ſay I ever printed a ſheet in my life, I will ſubmit to any puniſhment. Many others, my lord, they write, and they write what comes into their heads. I believe there is a brother of mine here has forty quire of paper written by my father, and never one ſheet of them was publiſhed; but he writ his own mind to ſee what he could think of it another time, and blot it out again, may be. And I myſelf, I believe, have burned more papers of my own writing, than a horſe can carry. So that for theſe papers I cannot anſwer for them. There is nothing in it, and what concatenation can this have with the other deſign that is in itſelf nothing, with my lord's ſelect council ſelected by no body to purſue the deſign of my lord Shafteſbury? And this council, that he pretends to be ſet up for ſo great a buſineſs, was to be adjuſted with ſo much fineneſs, ſo as to bring things together. What was this fineneſs to do, taking it for granted, which I do not. This was nothing, if he was a credible witneſs, but a few men talking at large of what might be or not be, what was like to fall out without any manner of intention or doing any thing. They did not ſo much as enquire whether there was men in the country, arms, or ammunition. A war to be made by five or ſix men, not knowing one another; not truſting one another! What ſaid Dr. Coxe in his evidence at my lord Ruſſel's trial, of my lord Ruſſel's truſting my lord Howard? He might ſay the ſame of ſome others. So that, my lord, I ſay, theſe papers have no manner of coherence, no dependance upon any ſuch deſign. You muſt go upon conjecture; and, after all, you find nothing but only papers, never perfect, only ſcraps, written many years ago, and that could not be calculated for the raiſing of the people. Now, pray, what imagination can be more vain than that? and what man can be ſafe if the king's counſel may make ſuch (whimſical I will not ſay, but) groundleſs conſtructions? Mr. Attorney ſays the plot was broken to the Scots (God knows we were neither broken nor joined) and that the Campbells came to town about that time I was taken, and in the mean time my lord Howard, the great contriver of all this plot, who was moſt active, and adviſed the buſineſs that conſiſted of ſo much fineneſs; he goes there and agrees of nothing: and then goes into Eſſex upon great important buſineſs, greater than the war of England and Scotland, to what purpoſe? to look after a little pimping manor: and what then? Why, then, it muſt be laid aſide, and he muſt be idle five weeks at the Bath, and there is no enquiring after it. Now I deſire your lordſhip to conſider, whether there be a poſſibility for any men, that have the ſenſe of porters and grooms, to do ſuch things as he would put upon us. I would only ſay this, if Mr. Attorney be in the right, there was a combination with the Scots, and then this paper was writ: for thoſe that ſay, I did it, ſay, I was doing of it then, and by the notes, there is work enough for four or five years,

years, to make out what is mentioned in thoſe ſcraps of paper, and this muſt be to kill the king. And I ſay this, my lord, that, under favour, for all conſtructive treaſons you are to make none, but to go according to plain proof; and that theſe conſtructive treaſons belong only to parliament, and by the immediate proviſo in that act. Now, my lord, I leave it to your lordſhip, to ſee whether there is in this any thing that you can ſay is an overt-act of treaſon mentioned in 25 E. 3. If it be not plainly under one of the two branches, that I have endeavoured to kill the king, or levied war, then it is matter of conſtruction, and that belongs to no court, *but* the parliament. Then, my lord, this hath been adjudged already in Throgmorton's caſe. There are twenty judgments of parliament, the act of 13 Eliz. that ſay——I ſhould have ſome body to ſpeak for me, my lord.

L. C. J. We are of another opinion.

Mr. Juſt. Wythins. If you acknowledge the matter of fact, you ſay well.

Col. Sydney. I ſay there are ſeveral judgments of parliament, that do ſhew whatever is conſtructive-treaſon does not belong to any private court: that of 1 Mary. 1 Ed. 6. 1 Eliz. 5 Eliz. 18. another 13 Car. ſhew this. Now, my lord, I ſay that the buſineſs concerning the papers, it is only a ſimilitude of hands, which is juſt nothing. In my lady Carr's caſe, it was reſolved to extend to no criminal cauſe; if not to any, then not to the greateſt, the moſt capital. So that I have only this to ſay, that I think it is impoſſible for the jury to find this matter; for the firſt point you proved by my lord Howard, that, I think, is no body; and the laſt concerning the papers, is only imagination from the ſimilitude of hands. If I had publiſhed it, I muſt have anſwered for it; or if the thing had been whole and mine, I muſt have anſwered for it; but for theſe ſcraps never ſhewed any body, that, I think, does not at all concern me. And I ſay, if the jury ſhould find it (which is impoſſible they can) I deſire to have the law reſerved unto me.

Mr. Sol. Gen. My lord, and you gentlemen of the jury. The evidence hath been long; but I will endeavour to repeat it, as faithfully as I can. The crime the priſoner ſtands accuſed for, is compaſſing and imagining the death of the king. That, which we go about to prove that compaſſing and imagining by, is by his meeting and conſulting how to raiſe arms againſt the king, and by plain matter in writing under his own hand, where he does affirm, it is lawful to take away and deſtroy the king. Gentlemen, I will begin with the firſt part of it, the meeting and conſultation to raiſe arms againſt the king.

The priſoner, gentlemen, hath endeavoured to avoid the whole force of this evidence by ſaying, that this in point of law cannot affect him, if it were all proved; for this does not amount to a proof of his compaſſing and imagining the death of the king: and he is very long in interpreting the act of parliament to you of 25 E. 3. and dividing of it into

into ſeveral members or branches of treaſon; and does inſiſt upon it, that though this ſhould be an offence within one branch of that ſtatute, yet that is not a proof of the other, which is the branch he is proceeded upon, that is, the firſt clauſe againſt the compaſſing and imagining the death of the king. And, ſays he, conſpiring to levy war is not ſo much as one branch of that ſtatute, but it muſt be war actually levied. This is a matter he is wholly miſtaken in, in point of law. It hath been adjudged over and over again, that an act which is in one branch of that ſtatute, may be an overt-act to prove a man guilty of another branch of it. As levying war is an overt-act to prove a man guilty of conſpiring the death of the king; and this was adjudged in the caſe of ſir Henry Vane: ſo is meeting and conſulting to raiſe to arms. And reaſon does plainly ſpeak it to be ſo; for they that conſpire to raiſe war againſt the king, cannot be preſumed to ſtop any where till they have dethroned or murdered the king. Gentlemen, I will not be long in citing authorities: it hath been ſettled lately by all the judges of England, in the caſe of my lord Ruſſel, who hath ſuffered for this conſpiracy. Therefore that point of law will be very plain againſt the priſoner.

He hath mentioned ſome other things; as, that there muſt be two witneſſes to every particular fact; and one witneſs to one fact, and another to another, is not ſufficient. It hath been very often objected, and as often over-ruled: it was over-ruled ſolemnly in the caſe of my lord Stafford. Therefore if we have one witneſs to one overt-act, and another to another, they will be two witneſſes in law to convict this priſoner.

In the firſt part of our evidence, we give you an account of the general deſign of an inſurrection that was to have been; that this was contrived firſt when my lord Shafteſbury was in England; that after my lord Shafteſbury was gone, the buſineſs did not fall, but they thought fit to revive it again, and, that they might carry it on the more ſteadily, they did contrive a council among themſelves of ſix, whereof the priſoner at the bar was one. They were the duke of Monmouth, my lord of Eſſex, my lord Howard, my lord Ruſſel, the priſoner at the bar, and Mr. Hambden. This council they contrived to manage this affair, and to carry on that deſign that ſeemed to fall by the death of my lord of Shafteſbury; and they met. This we give you an account of, firſt by witneſſes that gave you an account in general of it: and though they were not privy to it, yet they heard of this council, and that colonel Sydney was to be one of this council. This, gentlemen, if it had ſtood alone by itſelf, had been nothing to affect the priſoner at all. But this will ſhew you, that this was diſcourſed among them that were in this conſpiracy. Then my lord Howard gives you an account, that firſt the duke of Monmouth, and he, and colonel Sydney met, and it was agreed to be neceſſary to have a council that ſhould conſiſt of ſix or ſeven, and they were to carry it on: that the duke of Monmouth undertook to diſpoſe my lord Ruſſel to it, and colonel Sydney to diſpoſe the earl of Eſſex, and Mr. Hambden: that theſe gentlemen did meet accordingly,

and

and the ſubſtance of their diſcourſe was, taking notice how the deſign had fallen upon the death of my lord Shafteſbury; that it was fit to carry it on before men's inclinations were cool, for they found they were ready to it, and had great reaſon to believe it, becauſe this being a buſineſs communicated to ſo many, yet for all that it was kept very ſecret, and no body had made any mention of it, which they looked upon as a certain argument that men were ready to engage in it. This encouraged them to go on in this conſpiracy. Then when the ſix met at Mr. Hambden's houſe, they debated concerning the place of riſing, and the time: the time they conceived muſt be ſuddenly before men's minds were cool, for now they thought they were ready and very much diſpoſed to it: and for place, they had in debate whether they ſhould riſe firſt in the town, or in the country, or both together: and for the perſons, they thought it abſolutely neceſſary for them to have the united counſels of Scotland to join with them, and therefore they did refer this matter to be better conſidered of another time; and they met afterwards at my lord Ruſſel's houſe in February, and there they had diſcourſe to the ſame purpoſe. But there they began to conſider with themſelves, being they were to deſtroy this government, what they ſhould ſet up in the room of it; to what purpoſe they engaged. For they did very wiſely conſider, if this be only to ſerve a turn, and to make one man great, this will be a great hindrance in their affair: therefore they thought it was neceſſary to engage upon a public account, and to reſolve all into the authority of a parliament, which ſurely they either thought to force the king to call, or otherwiſe, that the people might call a parliament, if the king refuſed; and ſo they to chooſe their own heads.

But ſtill they were upon this point, that it was neceſſary for their friends in Scotland to have their counſels united with them; and in order to that, it was neceſſary to contrive ſome way to ſend a meſſenger into Scotland, to bring ſome men here to treat and conſult about it; and colonel Sydney is the man that does engage to ſend this meſſenger: and he had a man very fit for his turn, that is, Aaron Smith, whom he could confide in, and him he undertook to ſend into Scotland. This meſſenger was to fetch my lord Melvin, the two Campbells, and ſir John Cockram. Colonel Sydney as he engaged to do this, ſo afterwards he did ſhew to my lord Howard money, which he affirmed was for that buſineſs: he ſays it was a ſum of about ſixty guineas, and he believes he gave it him, for that colonel Sydney told him, that Aaron Smith was gone into Scotland, that the pretence was not bare-faced, to invite them over to conſult of a rebellion, but to conſult about the buſineſs of Carolina, being a plantation for the perſecuted brethren, as they pretended, in Scotland. Gentlemen, theſe Scotchmen that were thus ſent for over, they came accordingly, that is, the two Campbells, and ſir John Cockram: and the diſcourſe with ſir Andrew Foſter was according to this cant that was agreed on beforehand, concerning a plantation in Carolina. This was that that was pretended for their coming hither; but the true errand was, the

buſineſs

buſineſs of the inſurrection intended. Gentlemen, that they came upon ſuch a deſign, is evident from the circumſtances: they came about the time the buſineſs brake out, and in that time ſuſpiciouſly changing their lodgings they were taken making their eſcape, and this at a time before it was probable to be known abroad that theſe men were named as part of the conſpirators. Theſe things do very much verify the evidence my lord Howard hath given, and there is nothing has been ſaid does at all invalidate it. The ſending of Aaron Smith into Scotland, and his going, and the coming of theſe men, and their endeavouring to make their eſcape, are mighty concurrent evidences with the whole evidence my lord Howard has given. Now, what objections are made againſt this evidence? Truly none at all. Here are perſons of great quality have given their teſtimony, and they do not impeach my lord Howard in the leaſt; but ſome do extremely confirm the truth of my lord Howard. My lord Angleſey gives you an account of a diſcourſe at my lord of Bedford's; that my lord Howard came in, and that my lord Howard ſhould there comfort my lord of Bedford, and enlarge in the commendations of his ſon, and ſay he was confident he knew nothing of the deſign, and he muſt be innocent. Gentlemen, this is the nature of the moſt part of the evidence. My lord of Clare his evidence is much the like, that is, his denying that he knew of any plot. Now here is my lord Howard under a guilt of high-treaſon; for he was one of thoſe conſpirators not yet diſcovered, nor no evidence of any diſcourſe leading to any thing that ſhould give occaſion to him to proteſt his innocency: and, ſays he, I know nothing of the plot. You would have wondered if he ſhould have been talking in all places his knowledge, and declaring himſelf: his denying of it under the guilt, when he was not accuſed, is nothing to his confeſſion when he comes to be apprehended and taken for it. Here Mr. Philip Howard ſays, he had ſeveral diſcourſes with him about this buſineſs upon the breaking out of the plot, and that he adviſed him to make an addreſs, and that this was a thing that would be very acceptable, and very much for their vindication; and my lord Howard (he ſays) thanked him for his very good advice, and ſaid, he would follow it: and preſently after when my lord Ruſſel was apprehended, Mr. Howard tells him the news that my lord Ruſſel was apprehended; this was ſudden to him. And what ſays he? "We are all undone." When my lord Ruſſel, that was one of this council that was a ſecret council, and could not be traced but by ſome of themſelves, when he is apprehended, then he falls out into this expreſſion: "We are all undone." This is an argument my lord Howard had a guilt upon him. For, why were they all undone, that my lord Ruſſel was apprehended, any more than upon the apprehending the reſt? Yes, becauſe my lord was one of the ſix, and now it was come to the knowing of that part of the conſpiracy. It was traced to the council of ſix, which in all likelihood would break the neck of the deſign. Now though he put it off afterwards, ſaying, "I "believe it is a ſham plot," yet this was but a trivial put-off. And

then, when colonel Sydney is taken, the ſame witneſs Mr. Howard tells you, my lord was very ſad and melancholy; for then he had greater reaſon to lie under an apprehenſion of being detected. Therefore, gentlemen, this will rather confirm the truth of the evidence, than any way impeach it. Then (for I would repeat it all, though I think it hath no great weight in it) Dr. Burnet ſays, that after the plot, my lord Howard pretended he knew of no plot. This is no more than was teſtified by the other lords before; and all it imports, is, that my lord did not diſcover *himſelf* to Dr. Burnet. But I would fain know if my lord had told Dr. Burnet, had it not argued that he had great confidence in him, that he thought him a man fit to be truſted with ſuch a ſecret: and unleſs the doctor deſires to be thought ſuch a man, himſelf muſt own, it is no objection, that my lord Howard did not tell him. Ducas's teſtimony is no more neither, that he proteſted he was innocent, and believed colonel Sydney was innocent; and this was before my lord Howard diſcovered any thing of this plot. Then colonel Sydney objects, this is by malice, my lord Howard owes him money, and ſeeks to pay his debts by taking away his life; and, in further proſecution of this malice, would have ſeized upon his goods. But the evidence does not receive ſuch conſtruction; for my lord Howard only offered colonel Sydney the civility of his houſe to protect his plate and goods. Now, gentlemen, there were two other witneſſes, my lord Paget, and Mr. Edward Howard; but they ſay no more than the reſt of them, that he did proteſt his innocency, and Mr. Howard ſays, he adviſed him to make an addreſs to the king. This, gentlemen, I repeat, not that it is material, but for no other reaſon, than becauſe colonel Sydney had produced it; and ſo we are to think, he intended to make ſome uſe of it: but I cannot ſee any inference to be drawn from it. There is one witneſs more, and that is Mr. Blake, to the credit of my lord Howard, who comes here, and ſays, that when he diſcourſed about a pardon, my lord ſhould ſay, that he had a warrant for his pardon, but that he had not yet paſſed it, and could not yet; and he apprehended the reaſon was, becauſe the drudgery of ſwearing was not over. But this is but what my lord Howard had conjectured: firſt, it does not appear, that there is any promiſe of pardon at all to my lord Howard, or any terms impoſed on him. In the next place, whatever expectation he has of a pardon, he cannot reaſonably hope for it without making a clear diſcovery of all he knows: for to ſtifle his evidence he has given, is not a way to deſerve a pardon of his prince. Therefore, gentlemen, whatever expreſſions were uſed, though he called it the drudgery of ſwearing, however unwilling he is to come to it, and though he gives it very many hard names, and might think it very harſh to come and own himſelf to be one of the conſpirators, it might be irkſome, and very irkſome, yet none of them tell you, that my lord Howard ſhould ſay, that what he ſaid was not true. Now he has come and given his evidence, and you have heard all theſe objections againſt it, and not one of them touch it in the leaſt.

I come in the next place to the other part of the evidence, the papers found in colonel Sydney's houſe. And in the firſt place he objects they cannot affect him; for, ſays he, there is no proof they were found in my houſe, no proof they were written by me; for compariſon of hands, that is nothing; and if they were proved to be mine, it is nothing at all to the purpoſe: they are an anſwer to a polemical diſcourſe, which he entertained himſelf privately in his ſtudy. Why, you have obſerved, I know, that ſir Philip Lloyd in the firſt place ſwears, that by warrant from the ſecretary he ſearched his houſe, and he found the papers lying upon colonel Sydney's table in his ſtudy, when he came in there; and there is no ground nor colour for you to ſuſpect otherwiſe than that they were there, and he found them there. For the ſurmiſe of the priſoner at the bar, that they might be laid there, it is ſo foreign and without ground, that by and by you will think there is nothing at all in it. In the next place, we prove colonel Sydney's hand, and that by as much proof as the thing is capable of; ſuch a proof as in all caſes hath been allowed; and that is, for men to come that know and are acquainted with the hand-writing, and ſwear they know his hand-writing, and they believe this to be his hand. You have heard from Mr. Sheppard, a man that uſed to tranſact buſineſs for him, pay money for him; and Mr. Cooke, and Mr. Cary, men of known credit in the city of London, that have had the like dealings with colonel Sydney, and they ſwear, this is his hand-writing, as they verily believe. So that, gentlemen, this proof to you of colonel Sydney's hand-writing, does verify ſir Philip Lloyd, that theſe papers muſt be found there, if colonel Sydney writ them: and then this being found that they were writ by him, the next thing will be, how far this will be an evidence to prove his compaſſing and imagining the death of the king. Compaſſing and imagining the death of the king, is the act of the mind, and is treaſon whilſt it remains ſecret in the heart, though no ſuch treaſon can be puniſhed, becauſe there is no way to prove it: but when once there is any overt-act, that is, any thing that does manifeſt and declare ſuch intention, then the law takes hold of it, and puniſhes it as high-treaſon.

Now after this evidence, I think no man will doubt, whether it was in the heart of the priſoner at the bar to deſtroy the king. But firſt he objects, that this is a part of a book, and unleſs you take the whole, nothing can be made of it; as it is in wreſting of texts of ſcripture, ſays he, you may as well ſay, that David ſays there is no God, becauſe David hath ſaid, *The fool hath ſaid in his heart there is no God.* But, gentlemen, the application will not hold; for you ſee a long diſcourſe hath been read to you, a continued thread of argument; it is not one propoſition, but a whole ſeries of argument: theſe are the poſitions, "that the king "derives all his power from the People; that it is originally in the "People, and that the meaſure of ſubjection muſt be adjudged by the "Parliament; and if the king does fall from doing his duty, he muſt "expect the People will exact it." And this he has laid down as no

way

way prejudicial to him; for, ſays he, the king may refuſe the crown, if he does not like it upon theſe terms. But, ſays he, if he does accept it, he muſt expect the performance will be exacted, or revenge taken by thoſe he hath betrayed. Then next he ſets up an objection, and then argues againſt it: Ay, but ſhall the people be judge in their own cauſe? And thus he anſwers, It muſt be ſo; for is not the king a judge in his own cauſe? How can any man elſe be tried, or convicted of any offence, if the king may not be judge in his own cauſe; for to judge by a man's ſelf, or by his deputy, is the ſame thing; and ſo a crime againſt the king cannot be puniſhed. And then he takes notice of it as a very abſurd poſition, that the King ſhall judge in his own cauſe; and not the People. That would be to ſay, "The ſervant entertained by the maſter, ſhall judge the maſter, but the maſter ſhall not judge the ſervant." Gentlemen, after this ſort of argument he comes to this ſettled poſition, "We "may therefore, ſays he, change, or take away kings (without breaking "any yoke, or that is made a yoke which ought not to be one;) the "injury is therefore in impoſing the yoke, and there can be none at all "in breaking of it." But he goes on in his book, and that is by way of anſwer to an objection, That if there be no injury, yet there may be inconvenience, if the headleſs multitude ſhould ſhake off the yoke. But, ſays he, I would fain know how the multitude comes to be headleſs: and there he gives many inſtances in ſtory; and from foreign nations he comes home to the *Engliſh*, and tells you how all rebellions in latter ages have been headed; and tells you the parliament is the head, or the nobility and gentry that compoſe it; and when the king fails in his duty, the People may call it. The multitude therefore is never headleſs, but they either find or create an head. So that here is a plain and an avowed principle of rebellion eſtabliſhed upon the ſtrongeſt reaſon he has to back it. Gentlemen, this with the other evidence that has been given, will be ſufficient to prove his compaſſing the death of the king. You ſee the affirmations he makes: when Kings do break their truſt they may be called to account by the People. This is the doctrine he broaches and argues for: he ſays in his book in another part, that the calling and diſſolving of parliaments is not in the king's power. Gentlemen, you all know how many parliaments the king hath called and diſſolved; if it be not in his power, he hath done that that was not in his power, and ſo contrary to his truſt. Gentlemen, at the entrance into this conſpiracy they were under an apprehenſion that their liberties were invaded, as you hear in the evidence from my lord Howard, that they were juſt making the inſurrection upon that tumultuous oppoſition of electing of ſheriffs in London. They enter into a conſultation to raiſe arms againſt the king; and it is proved by my lord Howard, that the priſoner at the bar was one. Gentlemen, words ſpoken upon a ſuppoſition will be high treaſon, as was held in king James's time, in the caſe of Collins in Roll's Reports, "the king being excommunicate may be depoſed and mur-"dered," without affirming he was excommunicated: and this was

enough to convict him of high treaſon. Now, according to that caſe, ſay, the king having broken his truſt may be depoſed by his people, would be high treaſon; but here he does as good as affirm the king has broke his truſt, when every one ſees the king hath diſſolved parliaments: this reduces it to an affirmation. And though this book be not brought to that council to be peruſed, and there debated; yet it will be another, and more than two witneſſes, againſt the priſoner: for I would aſk any man, ſuppoſe a man was in a room, and there were two men, and he talks with both apart, and he comes to one and endeavours to perſuade him that it is lawful to riſe in arms againſt the king, if he break his truſt; and he ſhould go to another man, and tell him the king hath broken his truſt, and we muſt ſeek ſome way to redreſs ourſelves, and perſuade the people to riſe; theſe two witneſſes do ſo prove this treaſon together, that they will be two witneſſes to prove him guilty of high treaſon. And you have heard one witneſs prove it poſitively to you, that he conſulted to riſe in arms againſt the king, and here is his own book ſays, it is lawful for a man to riſe in arms againſt the king, if he break his truſt, and in effect he hath ſaid, the king hath broken his truſt: therefore this will be a ſufficient demonſtration what the imagination of the heart of this man was, that it was nothing but the deſtruction of the king and the government, and indeed of all governments. There can be no ſuch thing as government if the people ſhall be judge in the caſe: for what ſo uncertain as the heady and giddy multitude? Gentlemen, I think this will be a ſufficient evidence of his conſulting the death of the king. You have here the priſoner at the bar that is very deep in it. Indeed ſome men may by paſſion be tranſported into ſuch an offence, and though the offence be never the leſs, whatever the motives are; yet in ſome it is leſs dangerous: for thoſe that venture, upon paſſion, to raiſe commotions and rebellion, are not always ſo much upon their guard, but that they may make ſome falſe ſteps to intrap themſelves: but this gentleman proceeds upon a ſurer foundation, it is his reaſon, it is his principle, it is the guide of all his actions, it is that by which he leads and directs the ſteady courſe of his life. A man convinced of theſe principles, and that walks accordingly, what will not he do to accompliſh his deſigns? How wary will he be in all his actions, ſtill reaſoning with himſelf which way to bring it moſt ſecurely about. Gentlemen, this is the more dangerous conſpiracy in this man, by how much the more it is rooted in him: and how deep it is, you hear, when a man ſhall write as his principle, that it is lawful for to depoſe kings, they breaking their truſt, and that the revolt of the whole nation cannot be called rebellion. It will be a very ſad caſe when people act thus according to their conſciences, and do all this for the good of the people, as they would have it thought; but this is the principle of this man. Gentlemen, we think we have plainly made it out to you, and proved it ſufficiently, that it was the imagination of his heart to deſtroy the king, and made ſufficient proof of high treaſon.

Col. Sydney. Give me leave, my lord, to ſay a very few words. I deſire Mr. Solicitor would not think it his duty to take away men's lives any how: firſt, we have had a long ſtory——

L. C. J. Nay, Mr. Sydney, we muſt not have vying and revying. I aſked you before, what you had to ſay: the courſe of evidence is, after the king's counſel have concluded, we never admit the priſoner to ſay any thing.

Col. Sydney. My lord, it was a wiſe man ſaid, there never could be too much delay in the life of a man: I know the king's counſel may conclude if they pleaſe. Mr. Solicitor, I would not have him think that it is enough, by one way or another, to bring a man to death: my lord, this matter of ſir Henry Vane is utterly miſrepreſented——

L. C. J. I muſt tell you, gentlemen of the jury, that what the priſoner ſays that is not proved, and what the king's counſel have ſaid, of which there is no proof to make it out, muſt not be taken into any conſideration.

Col. Sydney. Then, my lord, here is a place or two in old Hale's [turning over my lord Hale's book] for the overt act of one treaſon, not being an overt act of another. Your lordſhip knows Coke and Hales were both againſt it [he reads] "Compaſſing by bare words is not an "overt act; conſpiring to levy war is no overt act."

Mr. Sol. Gen. I deſire but one word more for my own ſake, as well as the priſoner's, and that is, that if I have ſaid any thing that is not law, or miſrepeated or miſapplied the evidence which hath been given, I do make it my humble requeſt to your lordſhip to rectify thoſe miſtakes, as well in point of fact, as point of law; for God forbid the priſoner ſhould ſuffer by any miſtake!

L. C. J. Gentlemen, the evidence has been long, and it is a cauſe of great concernment, and it is far from the thoughts of the king, or from the thoughts or deſire of any of his judges here, to be inſtrumental to take away the life of any man that by law his life ought not to be taken away. For I had rather many guilty men ſhould eſcape, than one innocent man ſuffer. The queſtion is, Whether upon all the evidence you have heard againſt the priſoner, and the evidence on his behalf, there is evidence ſufficient to convict the priſoner of the high treaſon he ſtands charged with. And as you muſt not be moved by the denial of the priſoner further than as it is backed with proof, ſo you are not to be inveigled by any inſinuations made againſt the priſoner at the bar, further or otherwiſe than as the proof is made out to you. But it is uſual, and it is a duty incumbent on the king's counſel, to urge, againſt all ſuch criminals, whatſoever they obſerve in the evidence againſt them, and likewiſe to endeavour to give anſwers to the objections that are made on their behalf. And therefore, ſince we have been kept ſo long in this cauſe, it will not be amiſs for me and my brothers, as they ſhall think fit, to help your memory in the fact, and diſcharge that duty that is incumbent upon the court as to the points of Law.

This

This indictment is for high treaſon, and is grounded upon the ſtatute of 25 E. 3. by which ſtatute the compaſſing and imagining the death of the king, and declaring the ſame by an overt act, is made high treaſon. The reaſon of that law was, becauſe at Common Law there was great doubt what was treaſon; wherefore, to reduce that high crime to a certainty, was that law made, that thoſe that were guilty might know what to expect. And there are ſeveral acts of parliament made between the time of Edward the third, and that of 1 M. but by that ſtatute all treaſons, that are not enumerated by after-acts of parliament, remain as they were declared by that ſtatute of 25 E. 3. And ſo are challenges, and other matters inſiſted upon by the priſoner, left as they were at the time of that act. I am alſo to tell you, that, in point of law, it is not only the opinion of us here, but the opinion of them that ſat before us, and the opinion of all the Judges of England, and within the memory of many of you, that though there be two witneſſes required to prove a man guilty of high-treaſon; yet it is not neceſſary there ſhould be two witneſſes to the ſame thing at one time. But, if two witneſſes prove two ſeveral facts that have a tendency to the ſame treaſon, they are two witneſſes ſufficient to convict any man of high treaſon. In the caſe of my lord Stafford in parliament, all the judges aſſiſting, it is notoriouſly known, that one witneſs to a conſpiracy in England, and another to a conſpiracy in France, were held two witneſſes ſufficient to convict him of high treaſon. In the next place, I am to tell you, that though ſome judges have been of opinion, that words of themſelves were not an overt act; but my lord Hales, nor my lord Coke, nor any other of the ſages of the law, ever queſtioned but that a letter would be an overt act, ſufficient to prove a man guilty of high treaſon; for, *ſcribere eſt agere.* Mr. Sydney ſays, The king is a politic perſon; but you muſt deſtroy him in his natural capacity, or it is not treaſon. But I muſt tell you, if any man compaſs to impriſon the king, it is high treaſon: ſo was the caſe of my lord Cobham. And my lord Coke, when he ſays, If a man do attempt to make the king do any thing by force and compulſion, otherwiſe than he ought to do, that it is high treaſon within that act of 25 E. 3. but if it were an indictment only for the levying of war, there muſt be an actual war levied. But this is an indictment for compaſſing the death of the king; and the other treaſon mentioned in that act of parliament, for the levying of war, may be given in evidence to prove the conſpiring the king's death: for it is rightly told you by the king's counſel, that the imagination of a man's heart is not to be diſcerned; but if I declare ſuch my imagination by an overt act, which overt act does naturally evince that the king muſt be depoſed, deſtroyed, impriſoned, or the like, it will be ſufficient evidence of treaſon within that act.

In the next place, having told you what the law is, for, gentlemen, it is our duty upon our oaths, to declare the law to you, and you are bound to receive our declaration of the law; and upon this declaration, to enquire whether there be a fact ſufficiently proved, to find the priſoner guilty of the high treaſon of which he ſtands indicted: and for that, I

muſt tell you, whatever happens to be hearſay from others, it is not to be applied immediately to the priſoner; but, however, thoſe matters that are remote at firſt, may ſerve for this purpoſe, to prove there was generally a conſpiracy to deſtroy the king and government: and for that matter, you all remember it was the conſtant rule and method obſerved about the popiſh plot, firſt to produce the evidence of the plot in general: this was done in that famous caſe of my lord Stafford in parliament. Gentlemen, I am alſo to tell you, this alone does not at all affect the priſoner at the bar, but is made uſe of as a circumſtance to ſupport the credi*bility* of the witneſſes: and is thus far applicable to the buſineſs before you, that it is plain by perſons that do not touch the priſoner at the bar (and I am ſorry any man makes a doubt of it at this time of day) that there was a conſpiracy to kill the king; for after ſo full a proof in this place, and in others, and the execution and confeſſion of ſeveral of the offenders, I am ſurpriſed to obſerve that the priſoner at the bar, and ſome others preſent, ſeem not to believe it.

But, gentlemen, you hear the firſt witneſs, I ſpeak of Weſt: he tells you, he had the honour to be acquainted with Mr. Sydney, and that he had diſcourſe with Mr. Walcot, a perſon convicted and executed for this horrid conſpiracy. Why, ſays he, he told me at my chamber, that they were not only the perſons concerned, but that there were other perſons of great quality that had their meetings for the carrying on the buſineſs in other places. And Ferguſon, that was the ringleader in this conſpiracy, told him there was a deſign of a general inſurrection; it was once laid down, but it is now taken up again. There are other counſellors of great importance; and he names, among the reſt, the priſoner at the bar. Mr. Weſt goes a little further, and he tells you this: ſays he, He did not only tell me ſo, but that there was a deſign to conciliate a correſpondence with ſome perſons in Scotland, and they were to do it under the cant of having buſineſs in Carolina. There is Mr. Keeling, he tells you too, there was a deſign for a general and public inſurrection; that he was preſent with the Goodenoughs, one and the other; and that they had taken upon them to divide, and did divide, the city into ſuch and ſuch diſtricts. And what was the buſineſs? It was, that there might be a general inſurrection; might be an inſurrection, not only to deſtroy the king and the duke, but to deſtroy all the king's loyal ſubjects; and, in taking away their lives, to take away the life of monarchy itſelf, and to ſubvert the religion eſtabliſhed by law. Then comes in colonel Rumſey, and he gives you an account that he had heard of ſuch things in Mr. Weſt's chamber; and tells you he had received ſuch intelligence. And all theſe give you an account that there was ſuch a deſign to kill the king: and this is the ſubſtance of the general evidence produced to prove the conſpiracy.

Then to make this matter come home to the priſoner at the bar, firſt my lord Howard gives you an account, and does directly ſwear, that about the middle or latter end of January laſt, he happened to meet with

colonel

colonel Sydney, the priſoner at the bar, and the duke of Monmouth (they were the perſons firſt began to have diſcourſe about this matter) and how they met with a diſappointment; the thing had ſlept a great while, and that it was fit it ſhould be revived again; and that perſons of quality were mentioned, who were to have an immediate care in the carrying on of the buſineſs, and that it ſhould not be divulged to too many: accordingly there was my lord Ruſſel, my lord of Eſſex, my lord of Saliſbury, and Mr. Hambden named. He tells you, the priſoner at the bar undertook for my lord of Eſſex, and Mr. Hambden; and he tells you, the duke of Monmouth undertook for my lord Ruſſel, and the reſt; and that this was the reſult of one meeting. He goes yet further: that, purſuant to this, it was communicated to thoſe perſons ſo to be engaged, and the place and time was appointed; the place, Mr. Hambden's houſe; but is not ſo poſitive to the time, but only to the place, and perſons. He ſays, all theſe perſons met, and he gives you an account that Mr. Hambden, becauſe it was neceſſary for ſome perſons to break ſilence, gave ſome ſhort account of the deſign of their meeting, and made ſome reflections upon the miſchiefs that attended the government, and what apprehenſions many people had upon the late choice of Sheriffs, and that there had been a maleadminiſtration of public juſtice; that it was fit ſome means ſhould be uſed to redreſs theſe grievances. He cannot tell you poſitively, what this man, or that man ſaid there; but ſays, that all did unanimouſly conſent to what was then debated about an inſurrection; and, in order to it, they diſcourſed about the time when it ſhould be; and that they thought fit it ſhould be done ſuddenly, when men's minds were wound up to that heighth, as they then were; and, as the firſt witneſs tells you, there was a conſideration, whether it ſhould be at one place, or at ſeveral places together. He ſays, then it was taken into conſideration, that this could not be carried on but there muſt be arms and ammunition provided. The next ſtep is about a neceſſary concern, the concern of money, and therefore our law calls money *the ſinews of war*. My lord Howard tells you, that the duke of Monmouth propoſed 25 or 30,000*l.* that my lord Grey was to advance 10,000*l.* out of his own eſtate: but then they thought to make their party more ſtrong, by the aſſiſtance of a diſcontented people in Scotland, my lord of Argyll and ſir John Cockram, and ſeveral other people there, to join with them; that, purſuant to this, they all after met at my lord Ruſſel's; and the ſame debate is reaſſumed, and among the reſt, this particular thing of conciliating a friendſhip with the Scots; the Campbells, my lord of Argyll, and my lord Melvin were particularly mentioned: that colonel Sydney took upon himſelf to find out a meſſenger, but it was my lord Ruſſel's part to write the letter. One of the meſſengers named to convey the ſame was Aaron Smith, he was known, ſays my lord Howard, to ſome of us; and then we all agreed that Aaron Smith was the moſt proper man. Upon this they brake up that very time. Afterwards comes my lord Howard to colonel Sydney at ſome diſtance of time, and he comes to him, and ſhews

him

him threeſcore guineas, and told him, he was going into the city, and that they were to be given to Aaron Smith. He tells you after this, that he had ſome other diſcourſe, about a fortnight or three weeks after, with colonel Sydney; and that colonel Sydney did take notice that he had ſent him, and that he had an account of him, as far as Newcaſtle. So that it is very plain, that it was not hidden and raſh thoughts, it is a little more than according to the language we meet with in ſome pamphlets of late, more than heats and ſtirs. Gentlemen, then I muſt tell you, here are circumſtances proved in purſuance of this deſign, for ſir Andrew Foſter informs you, how that ſir John Cockram and the Campbells, and one Monro, as I take it, came to town, and that he had diſcourſe with ſome of them about their buſineſs of coming out of Scotland; and he ſays, they pretended it was about buſineſs of ſome trade to Carolina; which does ſtill corroborate the evidence. He tells you likewiſe, that there being a noiſe of diſcovering the plot, they began to hide; ſir John Cockram began to hide, and ſculk from place to place: they came firſt with that cant in their mouths, about Carolina. The meſſenger Atterbury tells you, when they came to take theſe men, how they ſhuffled from place to place.

So, gentlemen, I muſt tell you, that in caſe there be but one witneſs to prove a direct treaſon, and another witneſs to a circumſtance that contributes to that treaſon, that will make two witneſſes to prove the treaſon. Becauſe I would explain my mind: not long ago all the judges of England were commanded to meet together, and one that is the ſenior of the king's counſel was pleaſed to put this caſe: If I buy a knife of J. S. to kill the king, and it be proved by one witneſs I bought a knife for this purpoſe, and another comes and proves, I bought ſuch a knife of J. S. they are two witneſſes ſufficient to prove a man guilty of high-treaſon: and ſo it was held by all the judges of England then preſent, in the preſence of all the king's counſel. And therefore Mr. Sydney is mightily miſtaken in the law: for in caſe of any treaſon (except the treaſon at the bar) or in treaſon for clipping and coining, one witneſs is ſufficient at this day.

Now, gentlemen, ſuppoſing all this ſhould not be ſufficient, here is a libel, and it is a moſt traiterous and ſeditious libel. If you believe that that was colonel Sydney's book, writ by him, no man can doubt but it is a ſufficient evidence that he is guilty of compaſſing and imagining the death of the king; and let us conſider what proof can be greater than what has been given of it. Mr. Sheppard, an intimate acquaintance of his, that has ſeen him write, he looks upon the hand, and ſays, he is extremely acquainted with the hand, and ſays he, I believe in my conſcience this book is colonel Sydney's hand. Gentlemen, do you expect Mr. Sydney would call a witneſs to be by to ſee him write that book? In the next place, you have two tradeſmen, Coke and Cary, and they tell you, one had ſeen him write once, the other had ſeen his hand-writing; and they have good reaſon, for they have paid ſeveral ſums of money, upon notes which they took, as well as this, to

be his hand-writing. Gentlemen, beſides that, give me leave to tell you, here is another thing that makes it more plain. This very book is found in colonel Sydney's houſe, on the table in his ſtudy, where he uſed to write, by a gentleman againſt whom colonel Sydney cannot make the leaſt objection; and that there was that fairneſs offered by the gentleman, "Pray, colonel, put your ſeal upon it, that you may ſee that no injury "be done you." But Mr. Sydney would not do it. Therefore he ſeals them with his own ſeal, and carries them to Whitehall, where they were broken open: and ſwears that thoſe papers were found in his cloſet, whereof this was one. Another thing which I muſt take notice of to you in this caſe, is, to mind you, how this book contains all the malice, and revenge and treaſon, that mankind can be guilty of: it fixes the ſole power in the parliament and the people; ſo that he carries on the deſign ſtill, for their debates at their meetings were to that purpoſe. And ſuch doctrines as theſe ſuit with their debates; for there a general inſurrection was deſigned, and that was diſcourſed of in this book and encouraged. They muſt not give it an ill name: it muſt not be called a rebellion, it being the general act of the people. The king, it ſays, is reſponſible to them, the king is but their truſtee; that he had betrayed his truſt, he had miſgoverned, and now he is to give it up, that they may be all kings themſelves. Gentlemen, I muſt tell you, I think I ought more than ordinarily to preſs this upon you, becauſe, I know, the misfortune of the late unhappy rebellion, and the bringing the late bleſſed king to the ſcaffold, was firſt begun by ſuch kind of principles: they cried, he had betrayed the truſt that was delegated to him from the people. Gentlemen, in the next place, becauſe he is afraid their power alone will not do it, he endeavours to poiſon men's judgments; and the way he makes uſe of, he colours it with religion, and quotes ſcripture for it too; and you know, how far that went in the late times; how we were for "binding our king "in chains, and our nobles in fetters of iron." Gentlemen, this is likewiſe made uſe of by him to ſtir up the people to rebellion. Gentlemen, if in caſe the priſoner did deſign the depoſing the king, the removing the king, and if, in order thereunto, he be guilty of conſpiring to levy war, or, as to the letter writ by my lord Ruſſel, if he was privy to it, theſe will be evidences againſt him. So that it is not upon two, but it is upon greater evidences than twenty-two, if you believe this book was writ by him. Next I muſt tell you, Gentlemen, upon, I think, a leſs teſtimony, an indictment was preferred againſt the lord Ruſſel, and he was thereupon convicted and executed; of which they have brought the record. Theſe are the evidences for the king.

For the priſoner, he hath made ſeveral objections; as, that there was no levied war; for that, gentlemen, at the beginning of the cauſe, I told you what I took the law to be, and I take it to be ſo very plainly. But, gentlemen, as to the credibility of my lord Howard, he offers you ſeveral circumſtances. Firſt, he offers you a noble lord, my lord Angleſey, who ſays, that he, attending my lord of Bedford, upon the misfortune of the impriſonment

impriſonment of his ſon; after he had done, my lord Howard came to ſecond that part of a Chriſtian's office which he had performed; and told him, he had a very good ſon, and he knew no harm of him; and as to the plot, he knew nothing of it. Another noble lord, my lord Clare, tells you that he had ſome diſcourſe with my lord Howard, and he ſaid, that if he were accuſed, he thought they would but tell noſes, and his buſineſs was done. Then Mr. Philip Howard, he tells you, how he was not ſo intimate with him as others, but he often came to his brother's; and that he ſhould ſay he knew nothing of a plot, nor did he believe any; but at the ſame time he ſaid, he believed there was a ſham plot: and then he preſſed him about the buſineſs of the addreſs; but that now my lord of Eſſex was out of town, and ſo it went off. Another thing Mr. Sydney took notice of, ſays he, It is an act of revenge in my lord Howard, for he owes him a debt; that he does, beſides by his allegation does not appear.

Col. Sydney. My lord, he hath confeſſed it.

L. C. J. Admit it; yet in caſe colonel Sydney ſhould be convicted of this treaſon, the debt accrues to the king, and he cannot be a farthing the better for it. But how does it look like revenge? I find my lord Howard, when he ſpeaks of colonel Sydney, ſays, he was more beholden to him than any body, and was more ſorry for him; ſo ſays my lord Clare. Gentlemen, you have it likewiſe offered, that he came to colonel Sydney's houſe, and there he was deſirous to have the plate and goods removed to his houſe, and that he would aſſiſt them with his coach and coachman to carry them thither; and did affirm, that he knew nothing of the plot; and did not believe colonel Sydney knew any thing: and this is likewiſe proved by a couple of maid-ſervants, as well as the Frenchman. You have likewiſe ſomething to the ſame purpoſe ſaid by my lord Paget: and this is offered to take off the credibility of my lord Howard. Do you believe, becauſe my lord Howard did not tell them, I am in a conſpiracy to kill the king; therefore he knew nothing of it? He knew theſe perſons were men of honour, and would not be concerned in any ſuch thing. But do you think, becauſe a man goes about and denies his being in a plot, therefore he was not in it? Nay, it ſeems ſo far from being an evidence of his innocence, that it is an evidence of his guilt. What ſhould provoke a man to diſcourſe after this manner, if he had not apprehenſions of guilt within himſelf? This is the teſtimony offered againſt my lord Howard, in diſparagement of his evidence. Ay, but further it is objected, he is in expectation of a pardon: and he did ſay, he thought he ſhould not have the king's pardon, till ſuch time as the drudgery of ſwearing was over. Why, gentlemen, I take notice, before this diſcourſe happened, he ſwore the ſame thing at my lord Ruſſel's trial. And I muſt tell you, though it is the duty of every man to diſcover all treaſons; yet, I tell you, for a man to come and ſwear himſelf over and over guilty, in the face of a court of juſtice, may ſeem irkſome, and provoke a man to give it ſuch an epithet. It is therefore for his credit that he is an unwilling witneſs: but, gentlemen, conſider, if theſe things ſhould have been allowed to

take away the credibility of a witneſs, what would have become of the teſtimonies that have been given of late days? What would become of the evidence of all thoſe that have been ſo profligate in their lives? Would you have the king's counſel to call none but men that were not concerned in this plot, to prove that they were plotting? Ay, but, gentlemen, it is further objected, this hand looks like an old hand, and it may not be the priſoner's hand, but be counterfeited; and for that there is a gentleman who tells you what a dexterous man he is. He ſays, he believes he could counterfeit any hand in half an hour: it is an ugly temptation, but I hope he hath more honour than to make uſe of that art he ſo much glories in. But what time could there be for counterfeiting this book? Can you imagine that ſir Philip Lloyd, through the bag ſealed up, did it? Or, who elſe, can you imagine, ſhould, or does the priſoner pretend, did, write this book? So that on one ſide, God forbid but we ſhould be careful of mens lives! ſo, on the other ſide, God forbid that flouriſhes and varniſh ſhould come to indanger the life of the king, and the deſtruction of the government! But, gentlemen, we are not to anticipate you in point of fact; I have according to my memory recapitulated the matters given in evidence: it remains purely in you now, whether you do believe upon the whole matter, that the priſoner is guilty of the high-treaſon whereof he is indicted.

Mr. Juſt. Wythins. Gentlemen, it is fit you ſhould have our opinions: In all the points of law we concur with my Lord Chief Juſtice.—Says colonel Sydney, here is a mighty conſpiracy, but there is nothing comes of it. Who muſt we thank for that? None but the almighty Providence.—One of themſelves was troubled in conſcience, and comes and diſcovers it. Had not Keeling diſcovered, God knows whether we might have been alive at this day.

Then the jury withdrew, and in about half an hour's time returned, and brought the priſoner in guilty.

And the lieutenant of the Tower took away his priſoner.

MONDAY NOV. XXVI, MDCLXXXIII, ALGERNON SYDNEY WAS BROUGHT UP TO THE BAR OF THE COURT OF KING'S-BENCH TO RECEIVE HIS SENTENCE.

L. C. J. Mr. Attorney, will you move any thing?

Mr. Att. Gen. My lord, the priſoner at the bar is convicted of high-treaſon, I demand judgment againſt him.

Clerk of the Crown. Algernon Sydney, hold up thy hand [*which he did.*] Thou haſt been indicted of high treaſon, and thereupon arraigned, and thereunto pleaded Not guilty; and, for thy trial, put thyſelf upon God and the country, which country has found thee guilty; what can'ſt thou ſay

ſay for thyſelf, why judgment of death ſhould not be given againſt thee, and execution awarded according to law?

Col. Sydney. My lord, I humbly conceive, I have had no trial. I was to be tried by my country, I do not find my country in the jury that did try me. There were ſome of them that were not freeholders. I think, my lord, there is neither law nor precedent of any man that has been tried by a jury upon an indictment laid in a country, that were not freeholders. So I do humbly conceive that I have had no trial at all; and if I have had no trial, there can be no judgment.

L. C. J. Mr. Sydney, you had the opinion of the court in that matter before: we were unanimous in it, for it was the opinion of all the judges of England in the caſe next preceding yours, though that was a caſe relating to corporations; but they were of opinion, that by the ſtatute of queen Mary, the trial of treaſon was put as it was at common-law, and that there was no ſuch challenge at common-law.

Col. Sydney. Under favour, my lord, I preſume in ſuch a caſe as this, of life, and for what I know concerns every man in England, you will give me a day and counſel to argue it.

L. C. J. It is not in the power of the court to do it.

Col. Sydney. My lord, I deſire the indictment againſt me may be read.

L. C. J. To what purpoſe?

Col. Sydney. I have ſomething to ſay to it.

L. C. J. Well, read the indictment.

Then the clerk of the crown read the indictment.

Col. Sydney. Pray, ſir, will you give me leave to ſee it, if it pleaſe you.

L. C. J. No, that we cannot do.

Col. Sydney. My lord, there is one thing then that makes this abſolutely void: it deprives the king of his title, which is treaſon by law: *defenſor fidei*, there is no ſuch thing there, if I heard it right.

L. C. J. In that you would deprive the king of his life, that is in very full, I think.

Col. Sydney. If no body would deprive the king, no more than I, he would be in no danger. Under favour, theſe are things not to be over-ruled, in point of life, ſo eaſily.

L. C. J. Mr. Sydney, we very well underſtand our duty, we do not need to be told by you what our duty is: we tell you nothing, but what is law: and if you make objections that are immaterial, we muſt over-rule them. Do not think that we over-rule in your caſe that we would not over-rule in all men's caſes in your condition. The treaſon is ſufficiently laid.

Col. Sydney. My lord, I conceive this too, that thoſe words, that are ſaid to be written in the paper, that there is nothing of treaſon in them; beſides that there was nothing at all proved of them, only by ſimilitude of hands, which, upon the caſe I alleged to your lordſhip, was not to be admitted in a criminal caſe. Now it is eaſy to call a thing proditory;

but

but yet let the nature of the thing be examined, I put myſelf upon it, that there is no treaſon in it.

L. C. J. There is not a line in the book ſcarce, but what is treaſon.

Mr. Juſt. Wythins. I believe you do not believe it treaſon.

L. C. J. That is the worſt part of your caſe: when men are riveted in opinion that kings may be depoſed, that they are accountable to their people, that a general inſurrection is no rebellion, and juſtify it, it is high time, upon my word, to call them to account.

Col. Sydney. My lord, the other day I had a book, wherein I had king James's ſpeech, upon which all that is there is grounded in his own ſpeech to the parliament in 1603; and there is nothing in theſe papers, which is called a book though it never appeared; for if it were true, it was only papers found in a private man's ſtudy never ſhewed to any body; and Mr. Attorney takes this to bring it to a crime, in order to ſome other counſel; and this was to come out ſuch a time when the inſurrection brake out. My lord, there is one perſon I did not know where to find then, but every body knows where to find now, that is the duke of Monmouth; if there had been any thing in conſultation, by this means to bring any thing about, he muſt have known of it, for it muſt be taken to be in proſecution of thoſe deſigns of his: and if he will ſay there ever was any ſuch thing, or knew any thing of it, I will acknowledge whatever you pleaſe.

L. C. J. That is over; you were tried for this fact: we muſt not ſend for the duke of Monmouth.

Col. Sydney. I humbly think I ought, and deſire to be heard upon it.

L. C. J. Upon what?

Col. Sydney. If you will call it a trial——

L. C. J. I do. The law calls it ſo.

Mr. Juſt. Wythins. We muſt not hear ſuch diſcourſes, after you have been tried here, and the jury have given their verdict; as if you had not juſtice done you.

Mr. Juſt. Holloway. I think it was a very fair trial.

Col. Sydney. My lord, I deſire that you would hear my reaſons why I ſhould be brought to a new trial.

L. C. J. That cannot be.

Col. Sydney. Be the trial what it will?

Clerk of the Crown. Cryer, make an Oyes.

Col. Sydney. Cannot I be heard, my lord?

L. C. J. Yes, if you will ſpeak that which is proper. It is a ſtrange thing, you ſeem to appeal, as if you had ſome great hardſhip put upon you. I am ſure, I can as well appeal as you. I am ſure you had all the favour ſhewed you, that ever any priſoner had. The court heard you with patience when you ſpake what was proper; but if you begin to arraign the juſtice of the nation, it concerns the juſtice of the nation to prevent you: we are bound by our conſciences and our oaths to ſee right done to you; and though we are judges upon earth, we are accountable

to

to the judge of heaven and earth; and we act according to our conſciences, though we do not act according to your opinion.

Col. Sydney. My lord, I ſay, in the firſt place, I was brought to Weſtminſter by Habeas corpus, the 7th of this month, granted the day before, to be arraigned, when yet no bill was exhibited againſt me; and my proſecutors could not know it would be found, unleſs they had a correſpondence with the grand jury; which, under favour, ought not to have been had.

L. C. J. We know nothing of it: you had as good tell us of ſomebody's ghoſt, as you did at the trial.

Col. Sydney. I told you of two infamous perſons that acted my lord Ruſſel's ghoſt.

L. C. J. Go on, if you have any thing elſe.

Col. Sydney. I prayed a copy of the indictment, making my objections againſt it, and putting in a ſpecial plea, which the law, I humbly conceive, allowed me: the help of counſel to frame it was denied.

L. C. J. For the copy of the indictment, it was denied in the caſe you cited. This favour ſhewed you to day, was denied at any time to ſir Henry Vane, that is, to have the indictment read in latin. Do not ſay on the other ſide, we refuſed your plea. I told you, have a care of putting it in. If the plea was ſuch as Mr. Attorney did demur to it, I told you, you were anſwerable for the conſequences of it.

Mr. Juſt. Wythins. We told you, you might put it in; but you muſt put it in at your peril.

Col. Sydney. My lord, I would have put it in.

L. C. J. I did advertiſe you, if you put in a plea, upon your peril be it. I told you, we are bound by law to give you that fair advertiſement of the great danger you would fall under, if it were not a good plea.

Col. Sydney. My lord, my plea was that could never hurt me.

L. C. J. We do not know that.

Col. Sydney. I deſire, my lord, this, that it may be conſidered, that, being brought here to my trial, I did deſire a copy of the indictment, upon the ſtatute of 46 E. 3. which does allow it to all men in all caſes.

L. C. J. I tell you, the law is otherwiſe, and told you ſo then, and tell you ſo now.

Col. Sydney. Your lordſhip did not tell me, that was not a law.

L. C. J. Unleſs there be a law particular for colonel Sydney. If you have any more to ſay——

Col. Sydney. I am probably informed, and, if your lordſhip will give me time, ſhall be able to prove it, that the jury was not ſummoned as it ought to be: my lord, if this jury was not ſummoned by the bailiff, according to the ordinary way, but they were agreed upon by the under-ſheriffs, Graham and Burton, I deſire to know, whether that be a good jury?

L. C. J. We can take notice of nothing, but what is upon the record. Here is a return by the ſheriff; if there had been any indirect means

uſed.

uſed with the ſheriff, or any elſe, you ſhould have mentioned it before they were ſworn.

Col. Sydney. Is there any thing in the world more irregular than that?

L. C. J. I know nothing of it. That time is paſt.

Col. Sydney. Now, my lord, all men are admitted on the jury.

L. C. J. Why, you did not like gentlemen, and now you do not like thoſe that you had. In plain Engliſh, if any jury had found you guilty it had been the ſame thing. It had been a good ſummons, if they had acquitted you.

Col. Sydney. When the jury, thus compoſed, was ſworn, four witneſſes, of whom three were under the terror of death for treaſons, were produced againſt me; and they confeſſed themſelves guilty of crimes of which I had no knowledge, and told ſtories by hearſay. And your lordſhip did promiſe, in ſumming up the evidence, that the jury ſhould be informed what did reach me, and what not; and I do not remember that was done.

L. C. J. I did it particularly: I think I was as careful of it as poſſibly I could be.

Col. Sydney. My lord Howard being the only witneſs that ſaid any thing againſt me; papers, which were ſaid to be found in my houſe, were produced as another witneſs, and no other teſtimony given concerning them, but that the hand was like unto mine. No man can ſay, I read them or ſhewed them to any man. None knew when they were written: the ink ſhewed, they had been done many, and perhaps, twenty or thirty years; yea, ſome paſſages were read out of them, without examining what went before and after. When I deſired the whole might be read, it was refuſed, unleſs I ſpecified the paſſage, which I could not do, knowing not one word in them. When I alleged, that in criminal caſes ſimilitude of hands could not be taken for evidence, propoſed my points of law concerning conſtructive treaſon, etc. and I did conceive, that no court under the parliament could be judges of it, and did deſire the ſtatute, which did ſo enact it, might be read, it could not be obtained: and I cited many judgments in parliament.

L. C. J. Mr. Sydney, if you arraign the juſtice of the nation ſo, as though we had denied you the methods of juſtice, I muſt tell you, you do what does not become you, for we denied you nothing that ought to have been granted. If we had granted you leſs, I think we had done more our duty. What points of law do you mean?

Col. Sydney. That of conſtructive treaſon, my lord.

L. C. J. We do not go upon conſtructive treaſon, it is plain treaſon within 25 E. 3.

Col. Sydney. Is writing an act?

L. C. J. Yes, it is *agere.* *(Proclamation made for ſilence.)*

Mr. Bamfield. Sir, I pray you to hear me one word as *amicus curiæ.* I humbly ſuppoſe that your lordſhip will not give judgment, if there be a material defect in the indictment: as the clerk did read it, he left out *Defenſor fidei*, which is part of the ſtyle of his majeſty.

L. C. J. We have heard of it already; we thank you for your friendſhip, and are ſatisfied. Mr. Sydney, there remains nothing for the court, but to diſcharge their duty, in pronouncing that judgment the law requires to be pronounced againſt all perſons convicted of high-treaſon; and I muſt tell you, that though you ſeem to arraign the juſtice of the court, and the proceeding—

Col. Sydney. I muſt appeal to God and the world. I am not heard.

L. C. J. Appeal to whom you will. I could wiſh with all my heart, inſtead of appealing to the world, as though you had received ſomething extreme hard in your caſe, that you would appeal to the great God of Heaven, and conſider the guilt you have contracted by the great offence you have committed. I wiſh with all my heart, you would conſider your condition; but if your own ingenuity will not provoke you, nothing I can ſay will prevail with you, to do it: if the king's general pardon, in which you had ſo great a ſhare of the king's mercy, will not, I could wiſh that as a gentleman and as a chriſtian you would conſider under what particular obligations you lie to that gracious king that hath done much more for you. I ſhould have thought it would have wrought in you ſuch a temper of mind, as to have turned the reſt of your life into a generous acknowledgement of his bounty and mercy, and not into a ſtate of conſtant combining and writing, not only to deſtroy him, but to ſubvert the government; and I am ſorry to ſee you ſo earneſt in the juſtification of the book, in which there is ſcarce a line, but what contains the rankeſt treaſon, ſuch as depoſing the king: it not only encourages, but juſtifies, all rebellion. Mr. Sydney, you are a gentleman of quality, and need no counſel from me: if I could give you any, my charity to your immortal ſoul would provoke me to it. I pray, God ſeaſon this affliction to you! There remains nothing with the court, but to pronounce that judgment that is expected, and the law requires, and therefore the judgement of the court is,

That you be carried hence to the place from whence you came, and from thence you ſhall be drawn upon an hurdle to the place of execution, where you ſhall be hanged by the neck, and, being alive, cut down; your privy members ſhall be cut off, and burned before your face; your head ſevered from your body, and your body divided into four quarters; and they to be diſpoſed at the pleaſure of the king. And the God of infinite mercy have mercy upon your ſoul!

Col. Sydney. Then, O God, O God, I beſeech thee to ſanctify theſe ſufferings unto me, and impute not my blood to the country, nor the city through which I am to be drawn; let no inquiſition be made for it, but if any, and the ſhedding of blood that is innocent muſt be revenged, let the weight of it fall upon thoſe that maliciouſly perſecute me for righteouſneſs ſake.

L. C. J. I pray God work in you a temper fit to go unto the other world, for I ſee you are not fit for this.

Col. Sydney. My lord, feel my pulſe [*holding out his hand*] and ſee if I am diſordered. I bleſs God, I never was in better temper, than I am now.

Then the lieutenant of the Tower carried back his priſoner.

THE APOLOGY OF A. SYDNEY IN THE DAY OF HIS DEATH.

THE APOLOGY OF A. SYDNEY IN THE DAY OF HIS DEATH.*

Being ready to dye under an accuſation of many crimes, I thought fit to leaue this as a teſtimony unto the world, that, *as I had from my youth endeauoured to uphold the common rights of mankind, the lawes of this land, and the true Proteſtant religion, againſt corrupt principles, arbitrary power, and Popery, I doe now willingly lay downe my life for the ſame*; and hauing a ſure witneſſe within me, that God doth abſolue me, and uphold me, in the utmoſt extremityes, am uery littell ſollicitous, though man doth condemne me.

I am noe wayes aſhamed to anote, that, from the yeare 1642, *untill the comming in of the king, I did proſecute the above-mentioned principles*; and hauing then finiſhed to the aduantage of all Europe, *and the honour of this nation*, a negotiation, upon which I had been employed in the north, choſe rather to remaine beyond the ſeas, then to returne into my owne country, though general Monk, upon the acount of many obligations receaued from me, did deſire me to returne, with large offers of all the aduantages he could procure for me.

I well knew his power, and did not doubt of his intentions; but though I thought it my duty to ſubmit unto the prouidence of God, in the *ſtrange* reuolutions brought amongſt us, through the unſearchable councels of his will, durſt not recead from the wayes of righteouſneſſe; and through his grace was able to reject the rewards of iniquity.

It being acknowledged, that though I had euer oppoſed the then triumphing party, noe man had ever ſhewed himſelf to be a fairer enemy, and that I had done many perſonall and moſt important ſeruices, as well to the royall family, as unto ſuch as depended upon it, I hoped that noe man would ſearch into my preſent thoughts, nor ſo far to remember my former actions, as to diſturbe me in a moſt innocent exile; and that the moſt malicious of my enemyes ſhould not pretend that I practiced any thing againſt the gouernement, I made Rome the place of my retreat, which was certainly an ill ſcene to act any thing, that was diſpleaſing unto it.

But I ſoone found, that noe inoffenſiueneſſe of behauiour could preſerue me againſt the malice of thoes, whoe ſought to deſtroy me; and was deffended from ſuch as there deſigned to aſſaſſinate me, only by the charity of ſtrangers.

When the care of my priuate affaires brought me into Flanders and Holland, anno 1663, *the ſame dangers accompanied me; and, that noe place might be ſafe unto me, Andrew White, with ſome others, were ſent into the moſt remote parts of Germany, to murther me.*

* The reader will find a difficulty in underſtanding ſome words and paſſages in this Apology, which, it is not improbable, was dictated to a Frenchman, *Joſeph Ducas*, the ſame who gave evidence on the trial.

The aſperity of this perſecution obliged me to ſeek the protectio[n] of ſomme forraine princes; and, being then in the ſtrength of my age, [and] reputation enough to haue gained honourable imployments; but all [my] deſignes were broken by letters and meſſages from this court, ſo as [no] durſt entertaine me; and when I could not comprehend the ground [of] dealing with me in ſuch a way, when I knew that many others, whoe had been my compaignons, and giuen *(as I thought)* more juſt cauſes of hatred againſt them, then I had done, were receaued into fauour, or ſuffer'd to live quietly. A man of quality, whoe well knew the temper of the court, explained the miſtery unto me, by letting me know, *that I was diſtinguiſhed from the reſt, becauſe it was knowne, that I could not be corrupted.*

Noe man could haue thought it ſtrange, if this has caſt me into the utmoſt extreamityes; and perhaps occaſions of being reuenged would not haue been wanting, if I had ſought them; but, inſtead of that, I caſt myſelf into unſuſpected retirement in the moſt remote part of France, where I paſſed aboue eleuen yeares, *and was drawne out of it only by a deſire of ſeeing my aged father before he died*, and obtained the king's paſſeport for my ſecurity.

My father dyed within a few weeks after my comming ouer; and, when I prepared myſelf to returne into Guaſcony, there to paſſe the remaining part of my life, I was hindered by the earl of Liceſter my brother, who queſtioned all that my father had giuen me for my ſubſiſtance; and by a long and tedious ſuitte in ſhancery, detained me in England, untill I was made a priſoner.

When a fauourable decree, obtained in ſhancery, gave me hopes of being freed from ſuch uexatious buſineſſe, I reaſſumed my former deſigne of returning into France; and to that end bought a ſmall parcell of ground, in a friend's name, with an intention of going immediately unto it. *This proceeded from the uneaſineſſe of my life, when I found, that not only the reall diſcontents, that grew to be too common, were aſcribed unto me, but ſham plots faſtened upon me, ſoe as I could never think my life a day in ſafety.*

Not long after the diſcovery of the popiſh plot, his majeſtye was informed of a great plot of the nonconformiſts, and that I was at the head of it; and though (being admitted unto his majeſtye's preſence) I did truly ſhew unto him, that there neither was nor could be any thing of that nature, as things then ſtood; becauſe it would caſt his majeſtye into conjunction with the Popiſh, which they did moſt abhorre; the ſham was continued, as appeares by the mealetub buſineſſe. Though my name was not there found, I am well informed, that, if it had ſucceeded, I ſhould have been inuolued in it.

Other wayes were inuented to uex and ruine me. When I only looked ouer a balcony to ſee what paſſed at the election of the ſheriffs of London, I was indicted for a riot.

In April laſt I was told by a perſon of eminent quality, uirtue, and underſtanding, that I ſhould infaillibly be made a priſoner. I aſked upon what

what pretence. He alleagued ſomme things that were entirely friuolous, relating unto vile perſons, whoes faces and names I did not know, but concluded ſomme or other would be found; and that if I was once taken, it mattered not for what cauſe; *it being impoſſible to auoide condemnation, before ſuch judges and juryes as I ſhould be tryed by.*

About the middell of June the towne was full of rumours of a plot ſayd to be diſcouered by Keeling, and not long after by Weſt. Some perſons fled, and a proclamation iſſued to haue them apprehended. My name was in every coffee-houſe, and ſeueral informations were given me, that I ſhould certainely be ſeaſed. I mentioned this to ſeuerall perſons; but knowing no raiſon why I ſhould abſent myſelf, reſolued not to do it; and continued in that minde, though I was told, earely in the morning on the 26th of June, that the duke of Monmouth was retired, and colonel Rumſey had rendered himſelf.

This concerned me ſoe littell, that I ſpent that morning upon my uſuall ſtudyes, or entertaining ſuch friends as came to ſee me; and, whileſt I was at diner, a meſſenger came and arreſted me in the king's name, by an order from four lords of the privy councell. Immediately after ſir Philip Lloyd came, with another order from the ſame lords, to ſeaſe my papers. He ſearched many ſecret places, but did not find one that he thought fit to take, exept ſuch as lay openly upon my table, or in a trunck that had not been ſhut in ſomme yeares. When he had ranſaked all, and put what he pleaſed into a trunck and pillowbear, he would haue perſuaded me to put my ſeale unto them; but I, remembring what had paſſed at collonell Manſell's lodging, and ſomme other occaſions of the like nature, refuſed to doe it; whereupon he put his own ſeale, but promiſed, that they ſhould not be opened, unleſſe it were in my preſence; which was obſerved as other promiſes of that nature have been; for I never ſaw the ſaid trunk or pillowbeare to this day. From my owne houſe I was carried to the meſſengers, and from thence to Whitehall, before the four lords, by whoes order I had bin apprehended.

The lord keeper [North] aſked me ſome queſtions concerning ſir John Cockram, and Aaron Smith, unto which I returned anſweares with all the reſpect I could, without preiudice unto the truth; and, when I thought that I had giuen full ſatisfaction, was taken into the cuſtody of a ſerieant at armes, and, by a warrant from ſir Leolin Jenkins *, [ſecretary of ſtate]:

* *Hithe.* Sir *Leolin Jenkins*, ſon of a taylour, judge of the Admiralty, was in hopes to be Archbiſhop of *Canterbury*; employed in four embaſſies, and whoſe indefatigable induſtry in promoting a peace for *France*, has been our - - - - -; [curſe or ruin.] He affirmed in the Houſe of Commons, *That upon neceſſity, the King might raiſe monies without act of Parliament.* A ſeaſonable argument to perſuade all the *Grand Juries* in *England*, to petition for a new Parliament. Or a liſt of the *principal labourers* in the *great deſign* of *Popery* and *arbitrary power*; who have betrayed their country to the *Conſpirators*, and bargained with them to maintain a *ſtanding army* in *England*, under the command of the *bigotted popiſh Duke*, who by the aſſiſtance of the L. L's. [*Lord Lieutenant's*] *Scotch army*, the forces in *Ireland*, and thoſe in *France*, hope to bring all back to *Rome*. Amſterdam, printed in the year 1677, in quarto. [By *Andrew Marvell.*]

ſtate] committed to the Tower for high-treaſon, and there detained a cloſe priſoner. Within a few days after, my houſe, mony, horſes, goods, and chattels, were ſeaſed both in the towne and country, which I take to be contrary to the lawes of the land, in thees three points: firſt, it is expreſſely ſayd in magna charta, confirmed by above thirty parliaments, and many other ſtatutes now in force, that noe man ſhall be impriſoned, unleſſe it be by the judgment of his peeres, upon the teſtimony of tow credible witneſſes, or his own free confeſſion, without force or violence; whereas here was no indictement or witneſſe produced untill the 7 of November, and, though extreame violence was uſed to me, I confeſſed noe crime at all. 2dly, The law of England appoints impriſonment "in cuſtodiam, not in pænam," acknowledges no cloſe impriſonment; whereas I was kept with the moſt extreame rigour, to the great preiudice of my health, and almoſt deſtruction of my life, without any conſolation from my friends, untill a few dayes before my tryall. 3dly, The law of England admits of noe ſeiſure of goods till after conviction; whereas diuers lewd fellowes were put into my houſe, whoe, beſides many inſolencies committed, did (as I am informed) felonioufly take away my coaches, ſeveral parcells of goods, and ſomme mony, long before any indictement was exhibited againſt me, and, though I made ſeueral adreſſes unto the king and councell, for the remouall of thoes violences, could obtaine noe reliefe.

November 6, I receaued notice from the lieutenant of the Tower, that an habeas corpus was brought unto him, and a command to bring me the next day before the king's bench; and I was accordingly brought into the pallace-yard of Weſtminſter, between ten and eleven the clock in the morning, before the grand jury aſſembled, or the king's councell could know the bill would be found, unleſſe they had the faculty of divining, or held ſuch an intelligence with the grand jury, as utterly ouerthrowes all juſtice.

The bill being found, I was immediately hurried to the bar, through a ſtrong guard of ſoldiers, to be arraigned. The bill was read in Engliſh and in Latin. I found it to be uery long, perplexed, confuſed, and containing a heap of crimes, diſtinct in nature, diſtinguiſhed from each other by lawes relating unto ſeuerall ſtatutes, which required ſeuerall conſiderations; noe ouert act was preciſely ſet forth, with its due circumſtances; noe man named, with whome I was ſayd to haue conſpired; the meetings to conſpire were ſayd to be on the 30th of June, and many other dayes both before and ſince; *whereas I was then, and had bin ſomme dayes before, and ever ſince, a cloſe priſoner:* hereupon I deſired the advice of councell, to frame exeptions againſt the bill, profeſſing that to me it ſeemed to be voide, as many had bin declared to be ſoe, and particularly that of the duke of Somerſet. I inſtanced, that the court had allowed unto ſir H. Vane the liberty of making his exeptions, and pleading over, which the lawes allowe in matters of life; but all was refuſed, without any other reaſon then the will of the judges. I then deſired councell to frame a ſpeciall plea, opening, as well as I could, the ſcope of it; but could obtaine nothing; and laſtly, when I offered a

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ſpeciall plea, ready engroſſed, the court would not receaue it, unleſſe it might be peremptory, declaring, that if it were ouer-ruled, I ſhould be noe further heard; which condition I was not willing to accept of, inaſmuch as, though I belieued my plea to be good, I was more confident of the merits of my cauſe; and, leaſt I ſhould be deprived of the benefit of pleading, was forced to comme to the general iſſue.

This proceeded meerely from my owne ignorance in the lawe, and want of councell, which if I had had, the court could not have impoſed ſo notorious a fraud upon me, as to make me believe, that I could not be admitted to plead not guilty, if that ſpeciall plea came to be ouer-ruled; euery one that is any-wayes verſed in the lawe knowing, that I might doe it without danger. If it had bin receaued, the court would have bin obliged to cut off thoes intricacyes, ambiguityes, by which I was entangled, and the jury brought to bring in a veredict which they did not underſtand; or impudently, in the face of the world, to have ſhowne, that they had noe conſideration of lawe or common ſenſe: and whatſoeuer they did, might then haue comme to the generall iſſue. Being driven upon theis extremityes, *by the uiolence and fraud of the chief juſtice*, whoe threatened, that judgement of treaſon ſhould be immediately entered, if I did not comme to the generall iſſue, I was forced to plead not guilty, and theareby loſt the aduantage, which was neuer to be recouered, unleſſe the judges could haue bin changed: they, whoe knew I could neuer be condemned upon ſuch evidence, as, by conſulting with the king's councell, they knew would be produced, unleſſe the matter could be rendered unintelligible by a common jury, reſolved againſt any thing that ſhould explaine it, or make the truth to appeare, and would never ſuffer me to get out of the ſnare in which they had caught me.

The court, for faſhion's ſake, allowed me a fortnight to prepare for my tryall; but, leſt the fraud or errours of the indictement ſhould be diſcouered, as that time might be of any benefite unto me; the coppy of it, and the help of councell, were again denyed, unleſſe I could tell upon what points in lawe I would deſire theyr aduice. This was noe leſſe then to inioine impoſibilityes. Having neuer ſtuddyed the lawe, I was utterly ignorant of it; the indictement was ſoe long, perplexed, and intricate, that the ableſt lawyers could give me but a very imperfect account of it upon hearing, though the wholle contexture of it ſeemed to be ſuch as was not to be upheld by lawe; it was hard for them juſtly to fixe upon the wayes of overthrowing it, when the exeptions, and the ſpeciall plea that I offered, had bin rejected, unleſſe they had had it before them, and nicely examined it; much leſſe could it be done by me, whoe am utterly unexperienced in thoes matters. * Mr. Atturney [ſir Robert Sawyer,

* *Chipping Wicham.* Sir *Robert Sawyer*, a lawyer of as ill reputation as his father. Has had for his attendance this ſeſſion 1000l. and is promiſed, as he inſinuates, to be *Attorney General* and Speaker of the Houſe of Commons.

A ſeaſonable argument, etc.

Sawyer, Knt.] had then ſo much confidence, and ſoe littell charity, as openly to avow, that I ſhould not have councell, leſt they ſhould furniſh or teach me the points of lawe that I might inſiſt upon. This appeared ſtrange unto all thoes whoe have any knowledge of the lawes of God or man, and that are not equaly depriued of charity and humanity. *The obtaining of juſtice is the end of the lawe, and truth the rule of it: hereupon it is agreed by mankinde, that every man ought to know his accuſation, that he may know to direct his deffence, or receaue advice, if he be ignorant in it.* It is an abſurd peruerſion of all lawe, to ſay, that I heard it read; when it was rendered ſoe long and intricate, that neither I, nor any other man, was, upon reading, able to comprehend it. One of the worſt acts that were imputed unto Caligula, the worſt and baſeſt of men, was, that he cauſed edicts to be written in a hand, and ſet up in a place where no man could read them: hereby he turned the lawe into a ſnare, and deſtroyed thoes who did not conforme themſelves unto the rule they neuer knew. They fall under the ſame condemnation whoe make accuſations obſcure, and ſuffer them not to be examined, leaſt they ſhould be underſtood. To euade this, my proſecutors falſely pretend, that noe ſuch priuilege is allowed to priſoners in England. But, beſides that naturall and univerſal rule of juſtice, which can be ouer-ruled by noe municipall law, I did produce the ſtat. of 46 Ed. III. which doth plainely enact, that all men, in all caſes, wheather they be ſuch as fall out againſt the king, or any others, ſhall haue coppy of ſuch records as are againſt them; and ſhewed, that the parliament, whoes example all other courts ought to followe, had allowed unto the earl of Strafford, the earl of Danby, the lord Stafford, and the popiſch lords now in the Tower, coppyes of their indictement: and, if it had bin pretended, that ſuch a priuiledge was allowed only unto peeres, I was ready to ſay, *that though I am not a peere, I am of the wood of which they are made, and doe not find, that our anceſtors were leſſe carefull of the liues of commoners, then of peeres, or that one lawe is made for them, and another for us; but are all entirely under the ſame lawe, and the ſame rules.*

I confeſſe that, at the time of my arraignement, I was not fully prouided with arguments and proofes of theſe matters; but when I came to my tryall, had thoes that were abundantly ſufficient: neuertheleſſe the chief juſtice (whoe, by his oath, and the king's, ought to have informed me of that lawe, if I did not know it) would not ſuffer the ſtatute to be read, when I produced an authentike coppy of it, nor allowe me the coppy of my indictement, which, according unto the true meaning and expreſſe words thereof, I demanded.

Though I was thus irregularly hurried unto tryall, I thought that my birth, education, and life, might haue deſerued a jury of the principal knights and gentlemen that were freeholders in Middleſex; or, if that rule were broken, the moſt eminent men for quality and underſtanding, reputation and uirtue, whoe liued in the county, though they had not freeholds, might have bin taken to fill up the pannell. The importance

and

and difficulty of the matter in queſtion ſeemed farther to enforce it; but, when a coppy of the pannell was ſent unto me, *I found that all rules of decency, diſcretion, and humanity, had bin neglected, as well as thoes of lawe*; the bailifes had not bin ſuffered to ſummon ſuch of the freeholders, in their ſeuerall hundreds, as ſeemed moſt fit for ſuch a ſeruice; but receaued orders to ſummon by name ſuch as *Graham* and *Burton* had, with the *under-ſheriff*, agreed upon: the coppy of the pannell was ſent unto me before one of them was ſummoned; and, if I am rightly informed, ſomme of the beſt being put in only for faſhion-ſake, did neuer receaue any ſummons; but ſure I am they did not appeare.

The life I haue led might haue giuen me ſomme kinde of knowledge of ſuch as reaſonably might be thought fit to be my judges; but I did not know the face of one, nor the names of more than three of the wholle pannell, and they laſt, as did not appeare. Upon examination I found, that they had not only put in uery many that were not freeholders, but picked up a rabble of men of the meaneſt callings, ruined fortunes, loſt reputation, and hardly endowed with ſuch underſtanding, as is required for a jury in a niſi prius court for a buſineſſe of fiue pounds.

This might have bin a littell mended by ſifting, if the reaſons alleaged againſt ſuch as were the king's ſeruants in pay, wanted freehold, or, for ſomme act ſpecifyed, were notoriouſly infamous, had bin accepted; but the lord chief juſtice being pleaſed, without pretence of lawe, reaſon, or precedent, or ſuffering the point of lawe concerning freehold to be argued, to reiect my exeptions, I was forced to challenge them peremptorily, whom I knew to have bin choſen to deſtroy me; and was thereby depriued of the benefite allowed by the lawe, and forced to admit of others moſt like unto them (whereas it is ſayed, that I reiected men of quality, and took ſuch as were mean, I doe profeſſe, that I doe not know of a man, family, name, or fortune, upon the pannell, but Mr. Burt, ſir Charles Gerard, and Mr. Hawtry, whome I reſolved to have accepted; and, if I did challange any other like unto them, it was meerely by miſtake;) and, to embroile the minds of a jury thus conſtituted, the king's councell produced Mr. Weſt, colonel Rumſey, Keeling, and ſir Andrew Foſter, *to tell ſtoryes upon heareſay*. The three firſt ſpake of a plot betweene themſelues and others, in which I was no more concerned, then that they, whoe had not reputation to carry on ſuch a work, were willing to make people believe, that I, and ſomme that had more, were engaged in it. This, in truth, did uery much tend to my juſtification; for it is not to be imagined, that, if I had bin engaged in their deſignes, I ſhould not rather have communicated with Weſt and Rumſey, then ſuch meane perſons, as were hardly in a diſtance of being knowne by me: and Foſter's depoſition went noe farther, then that, as the lord Howard ſayd ſomme Scotch gentellmen were deſired to comme up upon a pretence of treating concerning Carolina, ſomme did comme to treat of the ſame; but of me, or any correſpondence between me and them, he ſays not a word. The lord Howard's depoſition was uery rhetoricall, but nothing

at all to the preſent purpoſe. The indictement ſet forth a conſpiracy on the 30th of June, wherein I, and diuers others to the jury unknowne, did then, and many other days both before and after, in the pariſh of St. Giles, not hauing the feare of God before our eyes, at the inſtigation of the diuell, had traiterouſly conſpired the king to depoſe and kill; the gouuernment to ſubuert; to leauy war, and a cruell ſlaughter of his ſubiects to make; and, in order heareunto, had written a falſe and ſeditious libell or book to ſtirre up the people.

The witneſſes produced by me were three eminent peeres, tow gentelmen of great quality, couſin germains of the lord Howard, a doctor of diuinity, a Frenſh gentelman, tow of my ſeruants, and a very conſiderable citizen. Six of theſe did depoſe, that the lord Howard, with hands and eyes lifted up to heauen, and calling God to witneſſe, had moſt ſollemly declared he knew of noe plot; belieued there was none; took that which is mentioned, to be a ſham inuented by the prieſts and jeſuits, and the more dangerous for being a ſham, becauſe noe man knew wheare it would end. Four of them ſayd expreſſely, he had, with the ſame aſſeuerations, declared his confidence, that I knew of none; for that I was ſo much his friend, that, if I had knowne of any, I would have communicated it unto him.

Before I was brought to my tryall, I had ſet downe a certaine methode to be kept in making my deffence, and twelve points of lawe to be argued by councell, or ſaued to be found ſpecially, if the jury did finde any fact againſt me. But all was inuerted by the uiolence of the chief juſtice, who perpetually interrupted me; and was obſerued ſoe well to chooſe his time of breaking of my diſcourſe, as never to ſuffer me to finiſh any point that pinſhed too hard upon the undue practices of my proſecutors, or moſt conduced to my defence. Whenſoeuer I cited a lawe, or a judged caſe, that made for me, or propoſed a point of lawe to be argued or reſerued, he would tell me it was nothing to the purpoſe, they had already determined it, and obliged me to be ſilent. Then I thereupon ſayd *it was to noe purpoſe to ſpeak, if law, reaſon, and truth, were not regarded.* He told me, *that if I would not ſpeak, they knew how to proceed.*

When, by the impudence of his extrauagance, I was driuen into theis ſtreights, I ſaw noe better way then to ſhewe, that the only witneſſe againſt me was the lord Howard; and he could deſerue noe credite; that hauing, at the lord Ruſſel's triall, acknowledged, that the religious obligation of an oath did not conſiſt in the outward adminiſtring of it, but the calling of God to be a witneſſe unto it; that he had there, as in the preſence of God, aſſerted things inconſiſtent with what he had then ſworne (ſoe as Mr. Howard ſayd it was impoſſible that what he ſayd unto him, and what he had then ſworne in the court, could be true, unleſſe his lordſhip had one ſoul on Sunday, and another on Munday;) that he had thereby ſworne himſelf periured, which was beyond any legall con-

uiction,

uiction, and ought to deſtroy his teſtimony, as well as if he had been legaly conuicted.

That he had now added new periuries unto the former, in ſwearing things different from, and inconſiſtent with, what he had ſworne againſt the lord Ruſſel; and then concluded, that he knew noe more.

That, being under the guilt of many confeſſed crimes, the terrours of death, the deſpaire of obtaining a pardon, unleſſe it were by the drudgery of ſwearing, as was teſtified by Mr. Blake, or doing other jobs, as had bin ſayd by Hunt and Burroughs, whoe durſt not appeare, though ſuppœnas had been ſent them; he did in effect confeſſe his former crimes were to be redeemed only by committing more; he ought not to be credited; that he was my debtor; and, hauing defrauded me in the matter, and for the mony, with which I had truſted him, comming to my houſe under the name of a friend, he had endevoured to get my plate, and other things of value into his hands.

That the matter of his depoſition was as abſurd and impoſſible as falſe; that the ſix, which were ſayd to be a ſelect councell, were ſelected by noe man; that they, not being choſen by any, could not erect themſelues into a cabal, to manage ſuch buſineſſe as were by noe man committed unto their charge: that they did not knowe, and could haue noe confidence in one another; that I had neuer ſpoken unto the duke of Monmouth untill he brought the ſaid duke to dine with me by a cheat put upon us both a few days before the pretended meetings; that, upon ſuch occaſions, when men did inuite themſelues to conſpire, they did euer chooſe ſuch as they truſted, and could help forwards the deſignes for which they did conſpire; that the lord Howard was truſted by none of them, and was ſoe far from being able to doe any thing towards ſuch an end, that he durſt not ſay he could bring fiue men into the field, furniſh fiue pounds by his purſe or credite, or knew how to command them if they were brought together by any other; that, if he ſaid the ſame thing of me, I might confeſſe it; and did confeſſe, I did not knowe fiue men in England that would followe me; and could haue ſayd uery much more, if I had not bin hindered by the chief juſtice his frequent interruptions.

That, his depoſition being deſtroyed, nothing remained; or though contrary to lawe and reaſon it were receaued, it could be of noe ualue, *being ſingle.*

That no uſe could be made of the papers ſayd to be found in my houſe. That, though the gouernment of France is ſayd to be uiolent, noe uſe could be made of many papers of moſt dangerous conſequence, ſayd to be taken in M. de Fouquet's houſe, by the king of France his officers; and the error of not inuentorying them, in the preſence of ſome perſons truſted by him, was neuer to be repaired, and he had bin ſaued by it. That noe man ſaid I writ them, and ſimilitude of writing, in criminal caſes, could be noe euidence, as appeared by the judgement of the chief juſtice Keeling, and the wholle court, in the lady Car's caſe.

That, whoſoeuer writ them, they appeared to be only ſomme ſcraps of a large treatiſe, in anſwere to Filmer's book, which, *being full of abominable maximes*, might be oppoſed by any man: the like hauing been written by one White a prieſt, in fauour of Cromewell, when he was in poſſeſſion of the power; he, though a tyrant, abominated it, and a gentleman who preſented it: that, if I had written and publiſhed a book, I muſt be anſwearable for the contents of it, the wholle being conſidered; but, when a few ſheets, relating unto ſomme hundreds mentioned in them, were produced, not only the ſcope of the wholle remained unknowne, but the antecedents and the conſequents of the words they had read, being kept ſecrets, noe man could ſay wheather this work were good or euill, true or falſe: that, when I defired thoes papers brought into the court ſhould be all read, it was abſurdly propoſed, that I ſhould name the paſſage, I, not knowing any word that was in them: that the ink and paper did euidently ſhew they were uery old, and it was impoſſible they ſhould haue any dependence upon buſineſſe pretended to be now in agitation; ſuch as had bin written many, perhaps twenty or thirty yeares agoe, could not relate unto the pretended conſultations within ten moneths.

That noe tribunall did euer take notice of a man's priuate, crude, and undigeſted thoughts: that, though the inquiſition is the worſt and moſt bloody tribunall that hath bin knowne in the world, I neuer feared to writte what I pleaſed againſt the religion there profeſſed, when I liued under it; and, though it raged in Spaine more then any other place, noe monk could be queſtioned for any ſuch writings, though they contained the moſt dangerous hereſyes, if not publiſhed; and it were enough for him that had written them, to ſay, that he was perhaps miſtaken. This being ſoe, there is neither matter nor euidence; the lord Howard's teſtimony is nothing in itſelf, and cannot be ſupplyed by that which is alſo nothing, or, if it were to be receaved by itſelf, could have noe relation to the conſults of which he accuſeth me. I muſt euer inſiſt upon the lawe of God giuen by the hand of Moſes, confirmed by Chriſt and his Apoſtles, whereby tow witneſſes are neceſſarily required to euery word, and euery matter. This is receaued by all that profeſſe the name of Chriſt, and ſoe underſtood by all, that noe man in any place can be put to death, unleſſe tow or more teſtify the ſame word or thing. The reaſon of this is not becauſe tow or more euill men may not be found, as appeares by the ſtory of Suſanna; but becauſe it is hard for tow or more ſoe to agree upon all circumſtances relating unto a lye, as not to thwart one another: and whoeſoeuer admits of tow teſtifying ſeuerall things done or ſayd at ſeuerall times or places, conducing, as is ſayd of late, unto the ſame ends, deſtroyes the reaſon of that lawe, takes away all the defence that the moſt innocent men can haue for their liues, and opens a wide gate for perjury, by taking away all poſſibility of diſcouering it. This would be far more miſchieuous in England, where there is no law of retaliation, then other countryes, where a falſe witneſſe undergoes the ſame puniſhment as ſhould haue bin inflicted upon the accuſed perſon, if his words had bin found true;

true; but the lawe of England doth require tow witneſſes unto the ſame thing, in the ſtatut. Ed. VI. whereby compaſſing, by expreſſe word, to depoſe the king is made penall by forfeiture of goods; etc. and the ſtat. 3 Eli. 2. & 13 Car. 22. enacting, that conſpiring to leuy war ſhould be treaſon, neceſſarily required tow witneſſes for the proofe of it. The admiſſion of tow teſtifying things paſſing at ſeuerall times and places, is but a new inuention. The lords were brought to ſwallow it at the lord Stafford's tryall, by the perfect concurrence of the teſtimonyes of Turuile and Bugdale, in the ſame thing, vid. murthering the king, though the one was in France, the other in Staffordſhire; but if that, which was then perhaps too farre ſtrained, be carried ſoe much farther, as to extend to any thing that theſe gentlemen ſhall fancy may conduce unto the ſame end, there is noe ſaffetye in the lawe, and noe man can be found innocent, unleſſe he pleaſe, as was ſayd by one of the worſt magiſtrates that euer was in Rome in the worſt time, "ſcituros neminem ſe inuito reperiri poſſe inſontem." Sig. de imp. occ. That though there were ſuch a number of witneſſes as the lawes of God and man require, and they of credite, noe crime is fixed upon me that is or hath euer bin declared to be treaſon by the lawe. It is ſayd in the indictement, that I conſpired the death of the king: *but noe man ſayed, that any mention was ever made of it in my preſence; euen the king knowes I am not a man to have any ſuch deſigne; and I am noe more capable of it then of eating him, if he were death* [dead.] *I think I may ſay, I did once ſaue his life, but I am ſure I neuer endeauoured to take it away.* If the meetings mentioned were to be taken for conſpiracyes againſt his majeſtyes life, ſomething muſt haue bin there propoſed and reſolued concerning the wayes, manner, time, place, or perſons, by whome it ſhould be effected; of which not one word is pretended, nor that he was ſoe much as named.

That conſpiracyes take their denomination from the thing that the conſpirators endeauour to compaſſe; and noe men were euer ſayd to conſpire to do that which was neuer ſpoken of amongſt them.

That the compaſſing of the king's death, declared to be treaſon in the firſt branſh of the ſtat. 25 Ed. III. was meant his corporall death, inaſmuch as, in his politike capacity, he can neuer dye; and cannot be implyed by the branſh relating unto the leuying of war, which is an act diſtinct in nature, and diſtinguiſhed by lawe from it: the authorityes of Cooke and Hales, were alleaged to proue this diſtinction, that to leuy war was not to compaſſe the death of the king; and, being treaſon of different ſpecies, the ouert act of the one could not be the ouert act of the other: that conſpiring to leuy war, was not treaſon of itſelf, nor by implication, as appeared by ſeuerall temporary acts of the 1 of Mar. 13 Eli. 13 Car. 26. and others, whereby, after a certaine time during theire liues, to conſpire to leuy war is made treaſon, which had bin impertinent, if it had bin euer ſoe by the antient ſtat. of 25 Ed. III.

The caſe of ſir H. Vane was alleadged, whoe, though he had bin an eminent man in all the councells relating unto the firſt war, by which the late

late king was brought to death, it was neuer imputed unto him, becauſe euery man knew he had noe hand in it; and, though he did not deny but he had the like part in the war continued againſt his mageſty now raigning, he could not be conuicted without proofe of his appearing with a regiment in Southwark: but, as to the preſent caſe, here is neither king brought to death, nor war leuyed, nor any thing done in relation to either. Here is nothing but a meeting acted——a conſpiracy wherein it is not ſoe much as pretended, that the matter which they are ſayd to have conſpired, was euer mentioned; and ſhew war my accuſers dreame of, was to be made without men, money, armes, ammunition, officers, ſoldiers, places, or any thing done towards the prouiding any of them. Much might have bin hereupon ſayd concerning the incongruity, uanity, falſity, and abſurdity, of the lord Howard ſtoryes: at the lord Ruſſell's tryall he made the foundation of the councill of ſix to haue bin in proſecution of the earl of Shafteſburyes deſignes; and there apprehenſions, that a buſineſſe knowne to ſoe many, could not continue ſecret; and pretended their end to have bin, to adiuſt, with much fineneſſe, a buſineſſe conſiſting of many pieces; whereas it doth [not] appeare, that any of the ſix (except himſelf) knew any thing of what that earl had deſigned; but certaine it is, that none of them had in a long time had any communication with him. The duke of Monmouth and himſelf thought him to be mad. I could ſay much of the earl of Eſſex his thoughts of the ſame kind; and, beſides the knowne diſlikes which he had unto me, and I unto him and his wayes, I did not ſee his face in allmoſt a yeare before he went out of England, and had no communication with him afterwards. Noe man but the lord Howard had to this day explained the vaſt deſignes that were then knowne to ſoe many, that they could not be concealed; and he had not told the name of one of the ten thouſand briſk boys, that were to doe ſuch wonders. If he ſay true, nothing was done to adiuſt with ſuch fineneſſe the buſineſſe of many pieces, beyond the moſt common diſcourſes; and noe word fixed upon any man except the duke of Monmouth, who was of opinion, that a rabble could not reſiſt a well metodized army. A ſcoller, that knoweth not the difference betweene metode and diſcipline, might give ſuch a terme unto the right ſoldiers of an army; but he that attributes it unto a ſoldier, ſhewes, that the wholle is an inuention of his owne.

The mennagement of this affaire by the councill, or cabal, was equall unto the reaſons of forming it; not one of thoes pieces were taken into a conſideration: noe care taken of prouiding men, armies, amunition, or places; noe mention made of any correſpondance in citty or country, and mony, which was the principall point, was ſpoken of only jocoſely, or by the waye of mirth.

This is a new way of carrying on the greateſt buſineſſe in the world, and, if it were true, could only ſhew, that the ſix were as mad as ſomme of them thought the earl of Shafteſburye; but, if the reputation that ſomme of them have or had in the world, be compared unto that of the

lord

lord Howard, it will be thought more probable that he is a lier, then that they were fooles.

The reſt of the romance is ſuitable unto this. He ſaith, that a correſpondance was reſolued with the earl of Argile; but doth not ſay how, by whome, when or why. The matter relating unto the other Scotchmen is not leſſe crude: ſuch as beſt underſtood matters of Scotland ſhould be ſent for; a canting letter written, and ſent by Aaron Smith; but he neither tells certainely whoe writ the letter, or to whome it was directed, what were the expreſſe words or contents of it, nor wheather it was euer deliuered, or not: and he was ſo careleſſe of this important affaire, as not to remember the names of men; and he, that ought to be ſatisfied they were fit for ſuch a work, was forced to learn the name of ſir —— Cambell, by deſcription, which is impoſſible: noe man can know the likeneſſe of a picture, unleſſe he knew the man for whom it was drawne; nor by deſcription him that he doth otherwiſe knowe. The laſt part of that ſtory agrees well enough with the reſt. Having embarqued himſelf and his friends in this vaſt buſineſſe, and aduanced it ſoe far as you haue heard, he thought that all was well, and it did not deſerue his farther care: he lay idle at the leaſt ten weeks in London, or at Knightſbridge, contenting himſelf only in aſking me, wheather Aaron Smith was gone; and then thought himſelf more concerned in uiſiting a mannor of about tow hundred pounds a yeare in Eſſex, then aduancing the buſineſſe of war and ſtate that he had undertaken: after hauing for a while loitered there, with the ſame indifference and ſerenity of minde, he made another iourney to the Bath: this is the parentheſis he mentions, that laſted allmoſt ſix moneths: ſomme may impute it to the ſedate conſtancy of a philoſopher, others to the ſtupidity of a beaſt; but whoſoever conſiders the nature of the thing, and the temper of the perſon, can neuer belieue, that a wiſe or virtuous man could ſoe ſhamefully neglect the moſt important intereſt of his friends or country; and ſuch as know how much his lordſhip, through a moſt tender loue unto himſelf, is concerned in the moſt triuiall affaires that relate unto his perſon or intereſt, will as littell think he could be ſo well at leiſure, as not to look after thoes that came ſoe neare unto his life and fortune, if any ſuch had bin then in agitation. "Oportet mendacem "eſſe memorem." If the prouerbe be true, that liers ought to have good memoryes, his lordſhip, at my tryall, ought to haue thought of what he had ſayd at the lord Ruſſell's; and, if the ſtory had bin too long to be exactly related, he might have had recourſe unto that which is in print. Sir H. Vane the elder, and others being examined at the earl of Strafford's tryall, deſired to ſee their firſt examinations taken in writing, leaſt they might faile in any word; and the proſecutors, as well as judges, ſeeking nothing but truth and juſtice, allowed it. If the ſame ends had bin now ſought, he might have read out of the book what he had ſaid at his firſt tryall, and ſuffered to ſay noe more: but the drudgery of ſwearing was not ouer; ſomme other jobbs muſt be done, before he could haue his pardon; that which he had ſayd was not enough; and, notwithſtanding his

oath, that he knew noe more, he muſt ſweare more, wheather he knew it, or not. A fruitful fancy, ſpurred on by feare, and reſtrained neither by conſcience nor ſhame, furniſhed matter abundantly; and all was receaved, though directly contrary to his former depoſition upon the ſame thing: he frames a formall ſpeech for Mr. Hamden, as an ouerture of the ſeſſions; reduced the jocular diſcourſe of mony to a more ſerious conſideration of raiſing thirty or twenty-five thouſand pounds; ſuppoſes the lord Ruſſell to have bin the writer of the letter ſent by Aaron Smith; makes another ſpeech for Mr. Hamden, which he calls inuidious, as tending to an intention of referring all to the will of the parliement; but neither fineth upon any thing done, or to be done, nor relates a word ſayd by me, unleſſe it were in priuate unto himſelf, concerning A. Smith.

Such ſtuffe would not (as I ſuppoſe) haue bin receaued in any court of juſtice in Europe, nor in Weſtminſter-hall, *till it was furniſhed with theis judges*; but they, reſoluing to receave all that was againſt me, though euidently falſe, would neither ſuffer me to ſay the tenth part of what I had to alleage in my defence, nor to explaine or proue that which I propoſed. When the chief juſtice did cut me off, I did as juſtly as I could, deſire him to proceed ſoftly and fairely: that a wiſe heathen had ſayd, noe delay ought to be eſteemed long, when the life of a man was in queſtion; and that the ſcripture put an euill character upon thoes whoes feet were ſwift to ſhed blood; but all was in uaine; the points of lawe concerning the different ſorts of treaſons could not be heard; noe councell allowed to argue them; noe point of lawe ſaued, when I ſhewed, that here was in my caſe neither conſpiracy againſt the life of the king, nor war leuyed; and that if, by long ſeries of far-fetched incohearent ſuppoſitions, any man fancied me to be guilty of treaſon, it muſt be by conſtructions which none but the parliement could make: to proue this I cited the ſtat. 25 Ed. III. and deſired it might be read, with the prouiſoe that noe other court ſhould take cogniſance thereof; but I was ouerborne by the unreaſonable uiolence of the chief juſtice, and denyed the reading of the ſtatute, the aſſiſtance of councell to argue the points of lawe, or that any of thoes propoſed by me ſhould be ſaued unto me.

The firſt was, that, by the lawe, no man could be tryed upon an indictement layd in a county, unleſſe it were compoſed of freeholders. 2dly, The court hauing declared, that I was tryed upon the ſtat. 21 Ed. III. it ought to be declared upon what branch of that ſtatute. 3dly, That, though a conſpiracy to levy war were ſwore by one witneſſe, and that a credible one, I ought not to be thereupon indicted by the ſtat. 1 Ed. VI. 12. the 5 of Ed. VI. 11. and the 13 Car. II. 4thly, That conſpiracy to leuy war is not treaſon, by the ſtat. 21 Ed. III. 5thly, That, by the ſame, conſpiring to leuy war, is not an overt-act of compaſſing the king's death; and, though ouert-acts were pretended, they are not to be inquired into, without the teſtimony of tow credible witneſſes by the 1 Ed. VI. 12. and 5 Ed. VI. 11. and I ought not to be obliged to confeſſe ſuch a conſpiracy, if it be not proued. 6thly, Without admitting the fact, I ought to haue

councell

councell to argue the points of lawe ariſing upon the euidence; inaſmuch as I may have cauſe to demurre unto the euidence, and want their advice thereupon. 7thly, That, ſuppoſing the lord Howard to be a credible witneſſe, he is but one: noe man can be thereupon found guilty, as appeares by Whitebread's caſe; the papers cannot be taken for another witneſſe, ſimilitude of hands is noe euidence, whoſoeuer writ them; they can have noe concurrence with what is ſayd, being unknowne to him, written many yeares ſince, as appears by the ink and paper, and noe way relating unto the matter in queſtion, nor applyed unto any particular time or caſe whatſoeuer. 8thly, That, though the meetings mentioned by the lord Howard were ſuppoſed to be to conſult to levy war, ſuch aſſemblyes could not be taken for overt-acts of conſpiring the death of the king, noe word or ouert-act tending thereunto in giuing in euidence; nothing ariſing from ſuppoſitions, arguments, preſumptions, or conſtructions, can make a man a traitor: the end of the ſtat. 25 Ed. III. was to take awaye ambiguityes, and uariety of opinions, and the deciſions of all ſuch caſes as are theareby referred to the parliament.

If theſe points were not allowed, councell might haue bin admitted to argue them, or ſaued to be found ſpecially, as was deſired; *but all in uaine.*

I well knew the diſorder that had bin brought upon the nation in the time of Ri. the II. whenas it is ſayd in the ſtat. 1 H. IV. noe man knew what to ſpeak, or what to doe, for feare of treaſon; that the like was declared, ſtat. 1 Ma. and by the—Ed. VI. expreſſe words, and open preaching, to compaſſe the depoſing of the king, ſetting up another title, etc. though proued expreſſely by tow credible witneſſes, were not made treaſon; and could haue eaſily inferred a fortiori, that a polemike diſcourſe, left imperfect, neuer examined, neuer ſhewed to any man, writ long ſince, relating in generall unto ſuch caſes as thoes of Tarquin, Caligula, Nero, Vitellius, Peter the cruell of Caſtile, the degenerated races of Meroueus, or Charles the Great, or the like, could haue no relation unto any ſtatute of treaſon in England; but the chief juſtice would not ſuffer me to ſpeak.

This explained a myſtery which noe man could before underſtand: they, whoe ſaw I was not brought to a tryall with the lord Ruſſel, belieued, that, if the iayles did not furniſh ſomme other euidence againſt me *, I ſhould

* Mr. Aaron Smith depoſed, that he was a *Priſoner* in the *Tower* when Lord *Ruſſel* and Colonel *Sydney* were tryed; *and was kept cloſe Priſoner above nineteen weeks at five pounds a week charge, and two Warders watched him, or lay in the room.* That one of his *Warders* told him that Mr. Ambroſe Philips was come to ſpeak with him, *and had an order from one of the Secretaries to come as often as he would, and bring whom he would with him*; but then he was alone. When Mr. Philips came in, after ſome other diſcourſe, he told him, *it was in his power to make himſelf what he would; for*, ſaid he, *You know this rogue Sydney is a traytor, and you may make yourſelf what you will, if you will diſcover what you know of his deſigns againſt the government.* That he replied, *He could not ſay any thing that could touch a hair of Colonel Sydney's head*; and that then Mr. Philips ſaid, *If he might adviſe the King, he would have all the damn'd* WHIG *rogues hanged*, etc. etc. etc.

A Diſplay of Tyranny, part 2, p. 281.

be releaſed without a tryall; but when theis, and many other points of lawe, were ouer-ruled without hearing, *it plainely appeared, that my tryall was deffered* † *untill an underſheriffe could be made, that would pack a jury with Burton and Graham, and the bench could be filled with ſuch judges, as had noe underſtanding of the lawe, nor regard unto reaſon, juſtice, truth, or common ſenſe*; for words, though ſworne by tow credible witneſſes, could not be brought within the 25 Ed. III. only by any but ſuch as theis, according to the authority of Cook and Hales, and Pine's caſe, nor taken for

[† *Untill an underſheriffe could be made, that would pack a jury with Burton and Graham, and the bench could be filled with ſuch judges, as had noe underſtanding of the law, nor regard unto reaſon, juſtice, truth, or common ſenſe.*]

The Sheriffs were, *Peter Daniel*, Eſq; and *Samuel Daſhwood*, Eſq; who, together with ſir *Henry Tulſe*, Knt. Mayor, were appointed by a commiſſion under the great ſeal. The Under Sheriffs were, *Thomas Rowſe*, Gent. and *Charles Hargrave*, Gent.

There was all this ſummer [1681] ſtrange practiſing with witneſſes to find more matter againſt him [the Earl of Shafteſbury]: Wilkinſon a priſoner for debt that had been often with him was dealt with to accuſe him. The Court had found out *two ſolicitors* to manage ſuch matters, *Burton* and *Graham*; *who were, indeed, fitter men to have ſerved in a Court of Inquiſition, than in a legal government.*

Burnet's Hiſt. of his own times.

Mr. *Graham, the Solicitor of all the late ſham plots upon Proteſtants, and pay-maſter of corrupt juries and perjured witneſſes, ſolicited* this proſecution [againſt the Earl of Shafteſbury] and hence took his *firſt ſtep* to ſuch preferment as enabled him to give eight or ten thouſand pounds with a daughter.

A Diſplay of Tyranny. Or remarks upon the illegal and arbitrary proceedings in the Courts of Weſtminſter and Guild-hall; from the year 1678, to the abdication of the late King James: in which time the rule was "*Quod principi placuit lex eſto.*" London, printed anno *Angliae ſalutis primo*, 1689, part I. p. 66, in duod.

Then the *Jury* immediately gave in their verdict, that the Defendant [Sir Samuel Barnardiſton, Bart.] was guilty of the offence and miſdemeanor charged in the indictment; *as no doubt they reſolved to do, before they heard one word of the matter.* The judgment upon this verdict was, "*That the Defendant ſhould pay ten thouſand pounds fine, and be impriſoned till "paid, and to find ſureties for his good behaviour for life.*" Accordingly he was committed for the fine, to the *King's-bench*, and continued a *Priſoner* four or five years, which ſatisfied not; but *Graham* and *Burton*, thoſe inſtruments of rapin and oppreſſion, broke in upon his eſtate, and beſides the *waſte* and *deſtruction* made, levyed to *their own uſe* and the King's about ſix thouſand pounds.

The ſame, p. 214.

Upon this occaſion of *Health drinking*, I cannot hinder myſelf from remembering the caſe of Mr. *Elias Beſt*, a ſubſtantial citizen, *but one who had been an ignoramus Juryman*, a great reproach and an unpardonable crime in that day, as, ſir, *you very feelingly know.* He was indicted for the frolic of drinking *to the pious memory of honeſt Stephen Colledge*, and condemned to a *fine* of a *thouſand* pounds; to ſtand three times in the Pillory; and to give ſureties for his good behaviour for life. On this judgment, he was impriſoned three years; to the loſs of a good trade, and to the ruin of his health and eſtate; and when almoſt ready to expire, he was *graciouſly* pardoned, upon payment of £200 to the *Empſon* and *Dudly* of the late reign, *Graham* and *Burton*.

The ſame, part II. in the epiſtle dedicatory, to ſir Samuel Barnardiſton, Bart.

Mr. *Normanſel* and Mr. *Trotman*, the *Secondaries*, depoſed, *that Graham and Burton were the Proſecutors of Lord Ruſſell; that Sir Dudly North had the books from them, and returned Lord Ruſſell's Jury; that Juries had uſually been returned by the Secondaries, and taken out of two, three or four wards; but this Jury was taken out of above nineteen wards.*——Mr. *Trotman* added, *that Graham and Burton* were alſo the Proſecutors of Alderman *Corniſh.*——Sir *Dudly North*.

for an ouert-act of compaſſing the king's death. But they could bring the moſt confuſed improbable and contradictory relations of one man of noe credite a proofe of a conſpiracy; and as an ouert-act hath [hatch] up his credite with papers as ill proued, and containing matters unknowne unto him, and hauing noe cohearence with what he ſayd. Such as they only could ſuffer a witneſſe to gueſſe a man into treaſon, or make the moſt extrauagent gueſſings or ſuppoſition to paſſe for euidence.

Such

North went on ſaying, *that he impannelled the Juries for the Seſſions when the Lord Ruſſell was tryed*; that he returned the beſt Jury he could, without obſerving any ward; and drew this out of ſeveral wards, becauſe they might be the more ſubſtantial men;——that the Juries before, were returned by the *Secondaries*, but *this being a very extraordinary buſineſs*, he thought it requiſite to take care of it himſelf.

The ſame, part II. p. 285, 6, 7.

After this he [John Hambden, Eſq;] was brought to a trial for *miſdemeanour*, and was convicted on the *Lord Howard*'s evidence. He pleaded *Magna charta*, that a *Salvo contenemento*; but the Court fined him *forty thouſand pounds*, and to impriſonment till the fine was paid, and ſecurity for his good behaviour. The king made his choice of putting him in priſon, and he was committed to the Marſhal's houſe in the King's-bench, where he was ten months. He offered ſeveral ſums of money, and they anſwered, "*They had rather have him rot in priſon than pay the fine.*" After this, they put him in the *Common priſon*, where he was kept ten or eleven months very cloſe. Then, they contrived a writ, called *a long writ*, to reach his *real and perſonal eſtate*, whilſt he was thus a priſoner. After this, he heard *a new witneſs appeared*, which was after the defeat of the *Duke of Monmouth*. He was [then] ſent *cloſe priſoner* to the Tower, by the Lord Sunderland's warrant; and put into ſuch a room where he had no conveniency, and with two of the rudeſt *warders* in the Tower, to lie in the room with him. After ſeven or eight weeks, he was removed to *Newgate*, where he was kept cloſe eleven weeks. His *Friends* offered money for his pardon to ſome in power, who were the Lord *Jefferyes* and Mr. *Petre*; the ſum was ſix thouſand pounds, *and that was effectual.* It is not poſſible for a man to ſuffer more than he did. *By the help of the money, on condition he would plead guilty to his Indictment, he was to come off.* His friends adviſed him to it, *becauſe it could hurt none*; there being none living of thoſe called *the Council of ſix*, but the Lord Howard. Whereupon, pleading guilty, he was diſcharged; *paying three or four hundred pounds to* Burton *and* Graham *for the charge of his Pardon.*

The ſame, part II. p. 301.

Monday, jan. 20, 1689.

Mr. *Chriſty* reported from the *Committee*, to whom the bill for annulling the *attainder* of Sir *Thomas Armſtrong* was recommitted; ſome amendments to the *bill*; as alſo who were his proſecutors; and alſo what loſſes ſir *Thomas Armſtrong*'s family had ſuſtained by reaſon of the *attainder*; and thereupon it was reſolved, "*That Sir Richard Holloway, [late Recorder of Oxford, whoſe part in the diſpatching of Stephen Colledge advanced him to this ſtation*, as this author elſewhere obſerves] *Sir Francis Wythens, the Executors of the late Lord Jeffryes and of the late juſtice Walcot, Mr. Graham and Mr. Burton do attend the Houſe* [of Commons] *on Saturday morning next, to anſwer to ſuch matters as are charged againſt them touching Sir Thomas Armſtrong.*" Then Mrs. *Matthews*, Sir *Thomas Armſtrong*'s daughter, was called in, and examined what ſhe knew of the proſecution againſt her father; and Sir *Robert Sawyer*, then *Attorney General*, being named by her, as one of the *Proſecutors*, after ſhe was withdrawn, he was heard in his place to what was objected againſt him, and then he withdrew, and upon debate of the matter it was reſolved, "*That Sir Robert Sawyer's name be put into the bill as one of the proſecutors of Sir Thomas Armſtrong.* Reſolved, "*That Sir Robert Sawyer be expelled the houſe for the ſame.*"

Saturday, jan. 25, 1689.

The Houſe being acquainted, that according to their order, *Sir Francis Wythens, Sir Richard Holloway, Mr. Graham and Mr. Burton* attended at the door, they were ſeverally called in and examined, touching the Proſecution and *Proceedings* againſt ſir *Thomas Armſtrong*.

Such as they only could fancy, that a few ſcraps of old paper, refuting the doctrines of one of the moſt *wicked* and FOOLISH books that ever was written in the world, tended to the ſubuerſion of our gouernment; and that his approbation of the ſlaughter of Caligula, or the inſurrections againſt Nero, were ouert-acts of conſpiring the death of the king now raigning

ſtrong. And alſo the *Executors* of the late *Lord Jeffryes*, that were attending at the door were likewiſe called in, and aſked what they had to ſay why reparation ſhould not be made out of the Lord *Jeffryes* eſtate to the ſaid Sir *Thomas Armſtrong*'s family. No perſons appearing as *Executors* to the late *Juſtice Walcot*; the *Houſe* was acquainted, *that he dyed inteſtate, and had not left an eſtate ſufficient to pay his debts*. After the perſons beforementioned were heard and withdrawn, Mr. *Blaney* was called in, who gave the *Houſe* an account of the *Proceedings* in the *Court* of *King's-bench*, upon the awarding execution againſt Sir *Thomas Armſtrong*. And then the *Houſe* proceeded upon the amendments made by the *Committee* to the bill, for annulling the *attainder* of Sir *Thomas Armſtrong*: and after having inſerted the name of Sir *Robert Sawyer*, as a *Proſecutor*, and reſolved, "*That the ſum of five thouſand pounds ſhould be paid by the Judges and Proſecutors to Sir Thomas Armſtrong's Lady and Children, as a recompence of the loſſes they had ſuſtained by reaſon of his Attainder*; (the bill was recommitted, etc. etc.) The ſame, part I. p. 225

The *Commons* [1680] did alſo aſſert the right of the People to petition for a Parliamen And becauſe ſome in their counter-petitions had expreſſed their abhorrence of this practice they voted theſe abhorrers to be betrayers of the liberties of the Nation. They expelle one *Wythens* out of their Houſe for ſigning one of theſe, though he with great humilit confeſſed his fault, and begged pardon for it. *The merit of this ſoon raiſed him to be a judge for indeed he had no other merit.* They fell alſo on Sir *George Jefferyes*, a furious declaime at the bar: *but he was raiſed by that, as well as by this proſecution.*

Burnet's Hiſt. of his own times, Vol. I. p. 484

The addreſſes had now [1683] gone round *England*. The *Grand Juries* made after th *high preſentments againſt all that were eſteemed Whigs and Nonconformiſts*. Great pains wer taken to find out more witneſſes. Pardons and rewards were offered very freely. But non came in; which made it evident, that nothing was ſo well laid, or brought ſo near executio as the witneſſes had depoſed: *otherwiſe people would have been crouding in for pardons*. A people were apprehenſive of VERY BLACK DESIGNS, when they ſaw *Jefferyes* made Lor Chief Juſtice, who was ſcandalouſly vicious, and was drunk every day; beſides a drunken neſs of fury in his temper, that looked like Enthuſiaſm. *He did not conſider* the decenci of his poſt: nor did he ſo much as affect to ſeem impartial as became a Judge, but ru out upon all occaſions into declamations, that did not become the Bar, much leſs th Bench. He was not learned in his profeſſion; and his eloquence, though viciouſl copious, yet was neither correct nor agreeable. *Pemberton* was turned out of the Commo pleas, and *Jones* was put in his place: and *Jefferyes had three Judges joined with him in th King's bench fit to ſit by him.* The ſame, Part I. p. 56

When *Jefferyes* came to the *King* at *Windſor* ſoon after this trial [of Sir *Thomas Arm ſtrong*, 1684,] the *King* [C. II.] took a ring of good value from his finger, and gave it him for theſe ſervices. The ring upon that was called *his blood ſtone*. The *King* gave him one advice, which was ſomewhat *extraordinary* from a *King* to a *Judge*; but it was not the leſs neceſſary to him: the *King* ſaid, it was a hot ſummer, and he was going the Circuit, *he therefore deſired he would not drink too much.* The ſame, p. 580.

Kirk, who had commanded long in *Tangier*, was become ſo *ſavage* by the neighbourhood of the *Moors* there, that after the battle [of *Sedgemore*, fought July 6, 1685,] he ordered ſeveral of the priſoners to be hanged at *Taunton*, without ſo much as the form of law, he and his company looking on from an entertainment they were at. At every new health another priſoner was hanged up. And they were ſo brutal, that obſerving the ſhaking of the legs of thoſe whom they hanged, it was ſaid among them, they were dancing; and upon that muſick was called for. This was ſo illegal, and ſo inhuman, that it might have been expected that ſome notice would have been taken of it. But *Kirk* was only *chid*

for

raigning in England. The thing was fit to be brought only before ſuch as ſought to deſerue the preferrements unto which they were unworthily aduanced, by doing ſuch jobs, as would have bin abhorred by any that had underſtood the principles or ends of gouernments; examined the hiſtory of the world, or ſeen *that if it were in no caſe lawfull for people to riſe*

for it: and it was ſaid, that he had a particular order for ſome military executions, ſo that he could only be chid for the manner of it.

But, *as if this had been nothing*, *Jefferyes* was ſent the *Weſtern* circuit to try the priſoners. *His behaviour was beyond any thing that was ever heard of in a civilized Nation.* He was perpetually either DRUNK, or in a *rage*, liker a fury than the zeal of a Judge. He required the priſoners to plead guilty, and in that caſe he gave them ſome hope of favour, if they gave him no trouble; otherwiſe he told them he would execute the letter of the law upon them in its utmoſt ſeverity. This made many plead guilty, who had a great defence in law. But he ſhewed no mercy. He ordered a great many to be hanged up immediately, without allowing them a minute's time to ſay their prayers. He hanged, in ſeveral places, about SIX HUNDRED perſons. The greateſt part of theſe were of the meaneſt ſort, and of no diſtinction. The *impieties* with which he treated them, and his behaviour towards ſome of the Nobility and Gentry that were well affected, but came and pleaded in favour of ſome priſoners, would have amazed one if done by a *Baſhaw* in *Turky*. *England had never known any thing like it.* The inſtances are too many to be reckoned up.

But that which brought all his exceſſes *to be imputed to the King himſelf*, and to the orders given by him was, *that the King had a particular account of all his proceedings writ to him every day*; and he took pleaſure to relate them in the drawing room to foreign Miniſters and at his table, calling it *Jefferyes's campaign:* ſpeaking of all he had done in a ſtile, *that neither became the majeſty nor the mercifulneſs of a great Prince*, etc. etc. etc.

The ſame, p. 648.

As ſoon as it was known at *London*, that the *King* [James II.] was gone, the prentices and the rabble, who had been a little quieted when they ſaw a treaty on foot between the *King* and the *Prince*, [of *Orange*,] now broke out again upon all ſuſpected houſes, where they believed there were either *Prieſts* or *Papiſts*. They made great havock of many places, not ſparing the houſes of Ambaſſadours. *But none were killed, no houſes burnt, nor were any robberies committed. Never was ſo much fury ſeen under ſo much management.* *Jefferyes*, finding the *King* was gone, ſaw what reaſon he had to look to himſelf: and, apprehending that he was now expoſed to the rage of the people, *whom he had provoked with ſo particular a brutality*, he had diſguiſed himſelf to make his eſcape. But he fell into the hands of ſome who knew him. He was inſulted by them with as much ſcorn and rudeneſs as they could invent: and, after many hours toſſing him about, he was carried to the *Lord Mayor*, [Sir *John Chapman*, Knt.] whom they charged to commit him to the Tower, which the Lord *Lucas* had then ſeized, and in it had declared for the *Prince*. The *Lord Mayor* was *ſo ſtruck* with the terror of this rude Populace, and with the diſgrace of a man who had made all People tremble before him, *that he fell into fits upon it, of which he died ſoon after.*

The ſame, p. 797.

During theſe irruptions of the mob, Chancellor *Jefferyes*, diſguiſed in a *ſeaman*'s habit, in order to eſcape in a veſſel freighted for *Hamburgh*, was diſcovered by a clerk in chancery, that accidentally paſſed by, as he was looking out of the window of the houſe where he had concealed himſelf. He was immediately ſeized by the mob, and, after many indignities put upon him, carried before the *Lord Mayor*, who declined meddling with him. But the *Chancellor* ſeeing himſelf in the hands of an enraged mob, which threatned to tear him in pieces, deſired that he might be ſent to the *Tower*, which at laſt was granted him, *not as a favour, but in hopes of ſeeing him ſhortly conducted from thence to the Gallows.* It is pretended, he offered to diſcover many ſecrets, and for that reaſon, was kept ſome time in priſon, till the affairs of government ſhould be ſettled. But he died in that interval, by the blows he had received, according to ſome; drinking ſpirituous liquors, according to others; and, as ſome pretend, of the ſtone. *Never man had better deſerved a public puniſhment, as an atonement for all the miſchiefs done to his Country, and for all the blood ſpilt by his means.*

Rapin's Hiſt. of England.

riſe againſt a prince, there is not a prince in the world, that can have a lawfull title to the crowne he bears; the moſt part of our kings ſince William the Norman, were uſurpers; or, which is worſe, uſurpation conferres a juſt title.

Theis only hauing admitted an indictement, grounded wholly upon ſuppoſitions innuendoes and intentionels, could hearken unto the lord Howard; whoe coniectures what I and others meant, whoe writ the letter into Scotland, to whome it was directed, what were the contents and effects of it, though he would not ſpeak preciſely to any of thoes points.

Theis only could think him a credible witneſſe, when they had heard him ſweare himſelf periured, and the contents of his depoſition were, by his owne aſſertions, as in the preſence of God, proued to be falſe by nine irreproacheable witneſſes.

Theis only could ſuffer a jury to ſuppoſe, that an evidence can be grounded upon an opinion of a ſimilitude in writing, when they know it is none; that a book was written with an intention to ſtirre up the people, when they hardly ſawe the fiftyeth part of it, and would not ſuffer the tenth of that to be read; that papers, written perhaps twenty or thirty yeares agoe, were intended in proſecution of deſignes layd within ten months.

Theis only could receaue an indictement, in which the king's title of deffender of the faith was omitted; refuſe a copy, when it was demanded, and the ſtat. 46 Ed. III. produced, whereby it is enacted, that it ſhould, in all caſes, be allowed unto euery man, leaſt the irreparable errors of it ſhould be diſcouered. Theis only could give credite unto a grand jury, whoe, upon their oaths, preſented a bill, wherein I am ſayd to have traiterouſly, on the 30th of June, and many other days, both before and after, conſpired with many other falſe traitors, to them unknowne; *whereas I was then, and have bin euer ſince, a cloſe priſoner in the Tower*, and it is moraly impoſſible for any man to know I did conſpire, unleſs they did knowe with whome.

They only could pach [patch] up an euidence, conſiſting of tow parts, as the lord Howard's depoſition, and the papers upon the ſimilitude of a hand, when they knew both of them to be voide in lawe; and tack them together, when it was apparent, they neither had nor could haue any relation unto each other.

It was a work for them only impudently and without hearing, to ouer-rule many moſt important points of lawe; by their word to depriue the wholle Engliſh nation of their right of being tryed by freeholders, which is a generall and antient, as any paſt of our lawes; to make diſcourſes at a priuate meeting, imperfectly uariouſly and to their owne knowledge falſely reported, by a man of a moſt profligate life and reputation, to paſſe for a conſpiracy; to oblige a priſoner falſely to acknowledge he had conſpired to leuy war, or, contrary to the judgment of many parliaments, to make a conſpiracy to leuy war to paſſe for treaſon;

by

by the 25th of Ed. III. to make ſuch a conſpiracy, which could not be treaſon in itſelf (though it had bin true) to be treaſon, as imagining the death of the king, though the lawes, and the moſt reuerenced expoſitors of them, declare that is not ſo.

They only could take upon them by uarious improbable abſurd and falſe conſtructions, to make acts noe-wayes comprehended within the words or meaning of the ſtat. 25 Ed. III. to paſſe for treaſon, when they knew themſelues, by the ſame, to be forbidden to make any conſtruction at all; and neither to ſuffer the ſtatute to be read, councell heard, nor the points of law to be ſaued unto me.

None but ſuch as they would have ſuffered Mr. Sollicitor, by a long painted ſpeech, to haue miſrepeated the euidence on both-ſides to miſlead the jury; to haue repreſented the lord Howard's frequent atteſtations of God, that he knew of noe plot, belieued that was none, and took that which was ſpoken of, to be an inuention of the prieſts, only as willingneſſe to confeſſe it, and his many periuryes, as a mark of the truth of what he had ſworne: and by ſuch conſtructions as were abſurd impoſſible and falſe, to drive them headlong into a uerdict upon noe euidence, in matter of which they were utterly incapable of judging, if the law had referred unto them, and whoe were ſoe compacted and compoſed, as not to be capable of judging any matter relating unto the meaneſt thiefe.

If any others *then theis had bin upon the benſh*, I might haue bin heard, when I offered to anſwer unto theis fallacyes, and haue unraualled all his frauds; though ſuch a work could hardly be expected from a man of my education, and in an age, that had much abated his uigour and memory. If this was denyed, the points of lawe might haue bin left to be found ſpecialy; *but I was in all things ouerborne by the fury of the chief juſtice.* He did probably feare he ſhould not be taken for Ceſar's freind, if he did let this man goe. He was to deſerue his otherwiſe undeſerued preferrement. To this end, he made a ſpeech of about a hower and a quarter, ſoe confuſed, that I can giue noe other account of it, then that, as he had bin long obſerued to excell in the lawdable faculty of miſleading juryes, he did exerciſe it with more confidence upon the benſh, then euer he had done at the bar; declared treaſons that had bin hetherto unknowne, and that the jury was obliged to take that to be law, which he judged to be ſoe; miſrepreſented the euidence more then the ſollicitor had done; and as a rule which they were to followe, aſſerted, *that if one man ſwore, that ſuch a one ſayd, he would with his knife kill the king, and another, that he had of him bought that knife, it was ſufficient evidence to convict any man.*

It may as eaſily be gueſſed, what uerdict I expected from an ignorant ſordide and packed jury *, upon ſuch a direction, as what ſecurity any man

* Mr. *Richard Wynne* declared, That he was *Solicitor* to *Colonel Sydney*; that the *Colonel excepted* againſt ſeveral of the *Jury*; *to ſome as not being Freeholders*, and others, *as being in the King's ſervice, and receiving wages from his Majeſty.* That preſently after the *Tryal*, the

man in England can have for his life and eſtate, when ſuch ſtuffe can be made to paſſe for law: but I was ſtill ouerborne, and could not be heard, when I endeauoured to bring the chief juſtice to reflect upon his own extrauagancyes.

Before the tryall, I was credibly informed, that his lordſhip had ſoe far humbled himſelf, as to aduiſe with the king's councell of the wayes of compaſſing my death; and, that a paper, containing the reſult of that conſultation, had been ſeene upon Mr. Attorney's table. Since that time I haue bin told by perſons of unblemiſhed reputation, that, not ſatisfied with the directions given in publike, he had bin farther pleaſed, when he retired upon pretence of taking a glaſſe of ſack, to followe the jury and give them more particular inſtructions.

Vpon the firſt part, I was aduiſed to coniure his lordſhip, in the preſence of God, to declare, wheather he had not conſulted as aforeſayd; but the teſtimony his lordſhip gaue upon my tryall of the tenderneſſe of his conſcience, and how far he uallued the religion of his owne, and the king's oath, perſuaded me to be ſilent.

When the jury brought in their verdict, I deſired to examine them ſeriatim," whether every one of them had found me guilty before it was recorded; and prepared to aſk them particularly, wheather they had found me guilty of compaſſing the king's death? 2dly, Of leuying war againſt the king? 3dly, If they found me guilty of any treaſon, within the ſtatute 25 of Ed. III? 4thly, If they found any treaſon proued againſt me by tow witneſſes? And this I did, that I might not be depriued of the benifite of giuing my exeptions; as I have heard the lord Ruſſel had loſt it by not hauing moued it before the uerdict was recorded, but the chief juſtice would not heare me.

The irregularity of theis proceedings (that I may not uſe a harder word) obliged me, on the 25th of Nouember, to preſent a petition unto his majeſty, ſhewing,

" That your petitioner, after a long and cloſe impriſonment, was on the 17th of this month, brought with a guard of ſoldiers into the paſſe-yard, upon a habeas corpus, directed to the lieutenant of the tower, before any indictment had been found againſt him; that whileſt he was thus detained,

Lord Chief Juſtice ſent him *Priſoner* to the *King's Bench*, for ſaying, *the Jury* were a *Loggerhead Jury*; and that they had not evidence ſufficient to find ſuch a *Verdict*; or found a *Verdict* contrary to evidence.

Mr. *Wynne* ſaid this to *Angier*, *the Foreman of that murdering Jury*, and to *Gliſby*, *another of the three Carpenters which were upon that Jury*, and to another of their *Brethren* near *the King's Bench court*; whereupon they went to lay hold on Mr. *Wynne*; at which inſtant Mr. *Forth the King's Joyner* coming, interpoſed; upon which *Angier* ſaid, Mr. *Forth*, will you aſſiſt this man? *He ſays, Colonel Sydney's Jury was a loggerhead Jury:* To which Mr. *Forth* anſwered, *I have nothing to do with the Jury, but* Gliſby *knows, that I know he is a loggerhead.* Of this, they complained to *Jeffryes*, who committed Mr. *Wynne* and Mr. *Forth* to the *King's Bench*. It coſt Mr. *Forth* about *fifty pounds*, whereof *Burton* had *twenty-four*; and he being a *Proteſtant joiner*, ſcaped well out of their hands, as times then went; eſpecially *with that Trade.*

A Diſplay of Tyranny, etc. part 2. p. 306.

detained, a bill was exhibited and found; whereupon he was immediately carried to the king's benſh, and there arraigned; in this ſurpriſe, he deſired a copy of the indictment, leave to make his exeptions, or to put in a ſpeciall plea, ready engroſſed, which was alſoe rejected without reading; and being thretned, that if he did not immediately plead guilty, or not guilty, a judgement of high treaſon ſhould be entered, he was forced, contrary to law, as he ſuppoſed, to comme to a generall iſſue, in pleading non guilty.

Nouember 21. he was brought to his triall, and the indictement being perplexed and confuſed, ſoe as neither he, nor any one of his friends that heard it, could fully comprehend the ſcope of it, he was utterly unprouided of all the helps that the lawe alloweth unto every man for his defence; whereupon he did again deſire a copy, and produced an authentike copy of the ſtat. 46 Ed. III, whereby it is enacted, that euery man ſhall have a copy of any record that toucheth him in any manner, as well that which is againſt the king as any other perſone; but could neither obtaine a coppy of his indictement, nor that ſtatute ſhould be read.

The jury by which he was to be tryed, was not, as he is informed, ſummoned by the bailifs of the ſeuerall hundreds in the uſuall and legall manner, but names were agreed upon by Graham, Burton, and the underſherife, and direction given to the bailiffe to ſummon them; and being alſoe choſen, the coppy of the pannell was of noe uſe unto him.

When they came to be called, he exepted againſt ſomme for being your majeſtye's ſeruants, which he did hope ſhould not have been returned, when he was proſecuted by your majeſtye, with many others for not being freeholders, which exeptions he thinks are good in lawe: others were lewd and infamous perſons, not befit to be of any jury, but was ouer-ruled by lord chief juſtice; and your petitioner forced to challenge them peremptorily, whome he found to be picked, as moſt ſuitable unto their intentions, whoe ſought his ruine, whereby he loſt the benefite allowed by the lawe, of making his exeption, and was forced to admit of mekanike perſons, utterly unable to judge of ſuch matters as were to be brought before them.

The jury being ſworne, noe witneſs was produced, whoe fixed any thing beyond *hearſay* upon your petitioner, except the lord Howard; and ſomme that ſwore the papers ſayd to be found in his houſe and offered as a ſecond witneſſe, were written in a hand by your petitioner. Your petitioner produced ten witneſſes, the moſt of them men of eminent quality, the others of unblemiſhed fame, to ſhew the lord Howard's teſtimony was inconſiſtent with what he had, as in the preſence of God, affirmed unto many of them, as he ſwore in the tryall of lord Ruſſell, under the ſame religious obligation of an oath, as if it had been legally adminiſtered. Your petitioner did endeauour farther to ſhew the incongruity of his teſtimony, he being guilty of many crimes, which he did not pretend had any knowledge of; and having noe other hope of pardon, then by the drudgery of ſwearing againſt him, deſerued not to be belieued; and that

ſimilitude of hands could not be euidence, as was declared by the lord chief juſtice Keeling, and the wholle court in the lady Car's cauſe, ſo as noe euidence at all remained againſt him: that whoſoeuer writ thoes papers, they were but a ſmall part of a polemike diſcourſe, in anſwer to a book written aboue thirty yeares agoe, upon a generall propoſition, applyed to noe time, or any particular caſe; that it was impoſſible to judge of any part of it, unleſſe the wholle did appeare, which did not; that the ſence of ſuch as were produced, could not be comprehended, unleſſe the wholle were read, which was denyed; that the ink and paper ſhewed them to be written many years agoe; and the lord Howard knowing nothing of them, they could have no concurrence with what your petitioner was ſayd to haue deſigned with him and others.

That the confuſion and errors in writing it, ſhewed that they had neuer ſoe much as bin reuiewed, and written in a hand that noe man could read; were neither fit for the preſſe, nor could be in ſomme yeares, though the writer of them did intend it, which did not appeare; that being only the preſent ſtudy and priuate thoughts of a man, for the exerciſſe of his owne underſtanding in his ſtudy, neuer ſhewed unto any, nor applyed unto a particular caſe, could not fall under the ſtat. 25 Ed. III. which takes cogniſſance of noe ſuch matters, being reſerued thereby to the parliament, as declared in the prouiſo which he did deſire might be read, but was refuſed.

Eight or nine important points of lawe *did hereupon emerge*, upon which your petitioner, knowing his owne weakneſſe, did deſire his councell might be heard, or reſerued to be found ſpecially, but was oueruled by the uiolence of the lord chief juſtice; and your petitioner ſoe frequently interrupted, the wholle methode of his deffence was broken, and he not ſuffered to ſay the tenth part of what he could haue alleaged in his defence, and the jury carried into a uerdict that they did not know nor underſtand.

For as much as no man that is oppreſſed in England can have any reliefe unleſſe it be from your majeſtye, your petitioner humbly prays, the premiſes conſidered, your majeſty will be pleaſed to admit him into your preſence; and if he does not ſhew, that it is for your majeſtye's honour and intereſt to preſerue him from the ſayd oppreſſion, he will not complaine, though he be left to be deſtroyed."

But he was pleaſed to referre me to the ſame judges of whome I complained.

Nouember 26, I was again brought to the bar, and aſked by the chief juſtice, what reaſon I could alleage why judgment of death ſhould not be pronounced againſt me? My firſt anſwer was, that I had had noe tryall, the jury not hauing been compoſed of freeholders, as the law required. The chief juſtice ſayd the queſtion had been decided at the lord Ruſſell's tryall. I replyed, the queſtion had then bin concerning a corporation, this was upon an indictement layed in a county. He ſayd, that was nothing, the deciſion had been generall. I deſired to know, wheather any precedent could be alleaged, of an Engliſhman tryed by others then by freeholders; and

and that if this ruſe were broken, any man might be tryed by his owne groomes, or a jury made up of porters, carmen, or ſcauingers, and thereupon deſired councell to argue it, which was denyed.

I then deſired the indictement might be againe read, which was granted, but was not ſuffered to peruſe it: this I did alſoe deſire, upon an information, that the bill had bin mended ſince it came into the court: and that by a ſtatute of Henry the Sixth, every indictement was made void, whearein any word or ſillable had bin added or changed; but not being ſuffered to ſee it, I could not tell what additions or alterations had bin made.

I then pleaded, that by the ſtat. 13 Car. II. it was treaſon to depriue the king of any of his titles; and that defenſor fidei not being in the indictement it was void, and deſired councell to argue it; but though the chief juſtice ſeemed to be ſurpriſed at the objection, he oueruled it, and would not heare councell.

I then moued for a new tryall, by reaſon of the many miſcarriages that had bin in this, which he was pleaſed to call a tryal, though I took it to be none. I then pleaded, that trialls being inſtituted for the execution of juſtice, through the diſcouery of truth, that ought to be taken for none, whearein abuſes had bin committed to the ouerthrowe of juſtice; and that if I might be patiently heard, I thought I could make it appeare to haue bin ſoe in this my caſe: and went about to ſhew reaſons for what I ſayd. Amongſt others I ſhewed, that on the 7th of Nouember, I had bin brought to *Weſtminſter*, by an habeas corpus granted the day before, when as yet noe bill was exhibited againſt me, and my proſecutors could not know it would be found, unleſſe they had undewly correſponded with the grand jury. 2dly, That a copy of the indictement, the benefite of making my exeptions againſt it, or putting in a ſpeciall plea, which the lawe doth allowe, and the help of councell to frame them, or either of them, had bin denyed unto me. 3dly, The ſpeciall plea which I preſented, ready engroſſed, to preuent the miſchiefes that would followe upon my generall anſwer unto a long, confuſed, imperfect, unintelligible indictement, had bin reiected, and theareby forced to comme to a generall iſſue in pleading not guilty. Heareupon juſtice Withins, *being* (as ſeemed to me) *uery drunk*, told me, *it was falſe*; and the chief juſtice ſayd, he had not reiected my plea, but told me the danger of putting it in, becauſe the king's councell would demure unto it, and I could not be ſuffered to plead heareafter. Hereupon I replyed, *that hauing liued aboue threeſcore yeares, I had neuer receaued or deſerued ſuch language, for that I had neuer aſſerted any thing that was falſe*; but as to this particular, all that were preſent could witneſs my ſayd plea had bin reiected: and the condition afterwards impoſed, that I ſhould not be admitted to put in any other plea if that came to be oueruled, was not according unto lawe; but I being ignorant of it, and denyed the help of a councell, had bin forced to ſubmit, which I ſhould not haue done, if I had bin then as well informed as I am now, that I finde myſelf circumuented by the fraud of thoes, who by their oathes ought to haue preſerued me. 4thly, That being brought unto a

tryall,

tryall, Nou. 21. I had againe desired a copy of the indictement, alleaged precedents, produced an authentike copy of the stat. 46 Ed. III. enacting, that all men, in all cases, as well against the king as others, should haue copyes of any records in which they were concerned; but could neither obtain it, nor that the statute should be read. 5thly, I am probably informed, and if time be allowed doubt not but I shall proue it, that the bailifes of the hundreds of Middlesex, had not the liberty of summoning the freeholders according unto lawe, but such only (whether freeholders or not) whoes names were agreed by Graham and Burton, with the undersherife; of whome many were not summoned, when the copy of the pannell was sent unto me, and somme of them not at all. 6thly, Many of the king's servants now in pay, from whome impartiall justice could not be expected whilst I was prosecuted at the king's suite, were returned upon the pannell, and many whoe were not freeholders, and somme lewd and infamous persons, who deserue not to be of any jury; all my lawful exeptions reiected; the councell prayed to argue the points of law arising upon the euidence refused: whereby I had not only bin obliged to admit of thoes whome I knew to be chosen to destroy me, and forced to answer before a jury composed of mechanike persons, utterly incapable of judging such matters as came before them, but depriued of all lawfull defence.

I had many other things to offer, concerning the uncertainety and invalidety of the lord Howard's testimony. The *utter impossibility of bringing* papers written many yeares agoe, into a concurrence with a new plot, of which the plotters knew nothing. I desired that the duke of Monmouth *who now appeared*, might be asked, wheather he had euer heard of them, as he must haue done, if they had been designed to stirre up the people, in order unto councells taken with him. The weakenesse of an euidence taken from a similitude of hands; the unreasonableness of judging of a few sheets of a treatise, without seeing the wholle; the impossibility of bringing the matters layd unto my charge, within the stat. of 25 Ed. III. though they had bin proued; the iniustice of breaking the methode set for my defence; the fraud of the sollicitour's representations; the irregularity and mistakes of his lordship's direction; the direct incapacity layd upon that court to judge of constructive treasons; the manyfold errors in construing this to be treason, there being nothing to lead them unto it, but seauen or eight suppositions, of which euery one was false; and resolution taken not to heare any point of lawe argued, lest they should be thereby led unto truth: but nothing could be heard.

I had alsoe reason to moue for an arrest of judgment, that though I had granted what had bin sayd by lord Howard to be true, consulting to leuy war can amount only unto words, and words only are not to be treason, according to Cook and Hales, and Pine's case 4 Car. pr. 1.

Consulting to levy war is noe overt act of compassing the king's death, as is sayd expressely by Cook and Hales; assembling to consult, can amount unto no more than to consult, and, legally considered, can be no more

then

then conſulting, it being impoſſible in law or nature to conſult without aſſembling, that is, comming together, ſoe as aſſembling to conſult is noe more than bare conſulting, that is, bare words.

That conſulting, and ſending into Scotland, if it had bin true, were noe more then to conſult with thoes that were to comme; that all this being teſtified only by the lord Howard, had bin inualide, though their credite had bin good; as appeares by Blake his law, and the popiſh lords now in the tower, who are thought to hold their liues only upon the weakneſſe of one witneſſe, though there were many concurrent circumſtances. Whitebread's tryall was put off for the ſame reaſons: and, beſide that hath bin already ſayd of the papers, I ought to haue added the abſurdity of pretending, that ſuch as had been written many yeares agoe, not perfected, nor to be perfected, in a long time, perhaps neuer, and neuer ſhewne to any man liuing, ſhould be intended to ſtirre up the people; whereupon a new tryall, an arreſt of judgment, ſhould be giuen; but I could not be heard: and though I did atteſt God and man, that I had not bin ſufficiently heard, the chief juſtice with his uſuall precipitation pronounced judgment of death againſt me as a traitor.

Somme that were preſent, affirm, that he acknowledged the late pretended plot did not affect me: but I confeſſe I did not obſerue that, and think myſelf obliged unto him in nothing, *but that he ſeemed to lay uery much weight upon the Old Cauſe, and my engagement in it, with which I am ſo well ſatisfyed as contentedly to dye for it.*

When I heard the judgement, to the beſt of my remembrance I ſayd theis words.

Why then, oh Lord, ſanctify, I beſeech thee, theis my ſufferings unto me; ſanctify me through my ſufferings; ſanctify me through thy truth; thy word is truth; impute not my blood unto this nation; impute it not unto the great city through which I ſhall be led to the place of death; let not my ſoul cry though it lay under the altar; make no inquiſition for it; or, if innocent blood muſt be expiated, *let thy uangeance fall only upon the head of thoes, whoe knowingly and maliciouſly perſecute me for righteouſneſſe ſake.*

The chief juſtice then ſpeaking, as if I had been a diſtempered man, *I held out my arme, and deſired any that were preſent to feele my pulſe, and wheather any man could be more free from emotion; and I doe profeſſe, that ſoe far as I doe knowe and did then feele myſelf, I was neuer in a more quiet temper*; glory and thanks be unto God for euer, whoe had filled me with comforts, and ſoe upholds me, that hauing, as I hope, through Chriſt uanquiſhed ſin, he doth preſerue me from the feares of death.

The chief juſtice hauing performed this exploit, is ſayd to haue bragged unto the king, *that noe man in his place had euer rendered unto any king of England ſuch ſeruices as he had done, in making it to paſſe for lawe, that any man might be now tryed by a jury not conſiſting of freeholders; and that one witneſſe, with any concurrent circumſtance (as that of the buying the knife),*

was ſufficient to conuict him. In this he ſeems to haue ſpoken uery modeſtly; for he might truly haue ſayd, that he had oueruled eight or ten uery important points of lawe, and decided them without hearing; *whereby the lawe itſelf was made a ſnare, which noe man could auoide, nor haue any ſecurity for his life or fortune, if one vile wretch could be found to ſweare againſt him ſuch circumſtances as he required.* Neuertheleſſe wee all know, that the like had bin done in former times. In the dayes of Richard II. the nation was brought into ſuch a condition, through the peruerſion of the lawe, that no man knew what to ſay or doe for feare of treaſon, as is expreſſed in the ſtat. 1 Hen. IV. and were thereby driuen upon the moſt violent remedyes. God only knowes what will be the iſſue of the like practice in theis our days. Perhaps he will in his mercy ſpeedily uiſit his afflicted people. *I dye in the faith that he will doe it, though I know not the time or wayes; and am ſoe much the more confident he will doe it, that his cauſe, and his people is more concerned now then it was in former time. The luſt of one man and his fauyrites was then only to be ſet up in the exerciſe of arbitrary power ouer perſons and ſtates; but now, the tyranny ouer conſciences is principally affected*, and the ciuill powers are ſtretched into*

this

* " There has now for diverſe Years, a deſign been carried on, to change the Lawfull Government of England *into an Abſolute Tyranny*, and to convert the eſtabliſhed Proteſtant Religion *into downright Popery:* than both which, nothing can be more deſtructive or contrary to the Intereſt and Happineſſe, to the Conſtitution and Being of the King and Kingdom.

For if, firſt, we conſider the State, the Kings of England *rule not upon the ſame terms with thoſe of our neighbour Nations*, who, having by force or by addreſſe uſurped that due ſhare which their people had in the government, are now for ſome ages in poſſeſſion of an Arbitrary power *(which yet no Preſcription can make legall)* and exerciſe it over their perſons and eſtates in a moſt tyrannical manner. But here *the ſubjects retain their proportion in the Legiſlature*; the very meaneſt commoner of England is repreſented in Parliament, and is a party to thoſe laws by which the prince is ſworn to govern himſelf and his people. No mony is to be levied but by the common conſent. No man is for Life, Limb, Goods, or Liberty at the Soveraigns diſcretion: *but we have the ſame Right* (modeſtly underſtood) *in our proprietor that the Prince hath in his Regality*; and in all Caſes where the King is concerned, we have our juſt remedy as againſt any private perſon of the neighbourhood, in the Courts of Weſtminſter-Hall or in the High Court of Parliament. His very Prerogative is no more than what the Law has determined. His Broad Seal, which is the Legitimate ſtamp of his pleaſure, yet is no longer currant, than upon the Trial it is found to be Legal. He cannot commit any perſon by his particular warrant. He cannot himſelf be witneſſe in any cauſe: the Ballance of Publick Juſtice being ſo delicate, not the hand only but even the breath of the Prince would turn the ſcale. *Nothing is left to the King's will, but all is ſubjected to his authority: by which means it follows that he can do no wrong, nor can he receive wrong; and a King of England, keeping to theſe meaſures, may without arrogance be ſaid to remain the only Intelligent Ruler over a Rational People. In recompence therefore and acknowledgment of ſo good a Government under his influence*, his Perſon is moſt ſacred and inviolable; and whatſoever exceſſes are committed againſt ſo high a truſt, nothing of them is imputed to him, as being free from the neceſſity or temptation, but his Miniſters only are accountable for all, and muſt anſwer it at their perills. He hath a vaſt Revenue conſtantly ariſing from the Hearth of the Houſholder, the Sweat of the Labourer, the Rent of the Farmer, the Induſtry of the Merchant, and conſequently out of the Eſtate of the Gentleman: a large competence to defray the ordinary expence of the Crown, and maintain its luſtre. And if any extraordinary occaſion happen, or be but with any probable decency pretended, *the whole Land at whatſoever*

this exorbitant height, for the eſtabliſhment of popery. I believe that the people of God in England have, in theis late yeares, generally growne faint. Somme, through feare, have deflected from the integrity of their principles. Somme have too deeply plunged themſelves in worldly cares, and, ſoe as they might enjoy their trades and wealth, have leſſe regarded the treaſure that is layd up in heauen. But I think there are very many whoe have kept their garments unſpotted; and * hope that God will deliuer them and the nation for their ſakes. God will not ſuffer this land, where

whatſoever ſeaſon of the year does yield him a plentifull Harveſt. So forward are his peoples affections to give even to ſuperfluity, that a Forainer (or Engliſhman that hath been long abroad) would think they could neither will nor chuſe, but that the aſking a ſupply, were *a meer formality*, it is ſo readily granted. He is the Fountain of all Honours, and has moreover the diſtribution of ſo many profitable Offices of the Houſhold, of the Revenue, of State, of Lawe, of Religion, of the Navy (and, ſince his preſent Majeſties time, of the Army) *that it ſeems as if the Nation could ſcarſe furniſh honeſt men enow to ſupply all thoſe employments.* So that the Kings of England are in nothing inferiour to other Princes, ſave in being more abridged from injuring their own ſubjects: but have as large a field as any of external felicity, wherein to exerciſe their own Virtue, and ſo reward and encourage it in others. *In ſhort, there is nothing that comes nearer in Government to the Divine Perfection, than where the Monarch, as with us, injoys a capacity of doing all the good imaginable to mankind, under a diſability to all that is evil.*

And as we are thus happy in the conſtitution of our State, ſo are we yet more bleſſed in that of our Church; being free from that *Romiſh* Yoak, which ſo great a part of Chriſtendome do yet draw and labour under. *That Popery is ſuch a thing as cannot, but for want of a word to expreſs it, be called a Religion; nor is it to be mentioned with that civility which is otherwiſe decent to be uſed, in ſpeaking of the differences of humane opinion about Divine Matters.* Were it either open Judaiſme, or plain Turkery, or honeſt Paganiſme, there is yet a certain *Bona fides* in the moſt extravagant Belief, and the ſincerity of an erroneous profeſſion may render it more pardonable: but this is a compound of all the three, an extract of whatſoever is moſt ridiculous and impious in them, incorporated with more peculiar abſurdityes of its own, in which thoſe were deficient; and all this deliberately contrived, knowingly carried on by the bold impoſture of Prieſts under the name of Chriſtianity. The wiſdom of this fifth Religion, *this* LAST *and* INSOLENTEST *attempt upon the credulity of mankind*, ſeems to me (though not ignorant otherwiſe of the times, degrees, and methods of its progreſſe) principally to have conſiſted *in their owning the Scriptures to be the word of God, and the Rule of Faith and Manners, but in prohibiting at the ſame time their common uſe, or the reading of them in publick Churches but in a Latine tranſlation to the vulgar: there being no better or more rational way to fruſtrate the very deſign of the great Inſtitutor of Chriſtianity, who firſt planted it by the extraordinary gift of Tongues, then to forbid the uſe even of the ordinary languages.* For having thus a book which is univerſally avowed to be of Divine Authority, but ſequeſtring it only into ſuch hands as were intruſted in the cheat, *they had the opportunity to vitiate, ſuppreſſe, or interpret to their own profit thoſe Records by which the poor people hold their ſalvation.* And this neceſſary point being once gained, *there was thenceforward nothing ſo monſtrous to reaſon, ſo abhorring from morality, or ſo contrary to ſcripture which they might not in prudence adventure on*, etc. etc. etc.

An account of the *growth* of *popery* and *arbitrary government* in *England*. More particularly from the long prorogation of *Nov.* 1675, ending *Feb.* 15, 1676, till the laſt meeting of parliament, *July* 16, 1677. *Amſterdam*, printed in the year 1677, in quarto. [By *Andrew Marvell*, "Who dyed ſhortly after, *not without ſtrong ſuſpicions of being poyſoned.*"]

Of *James* I. *Charles* I. *Charles* II. *James* II. their evil deeds and ſinnings againſt their people, ſee an admirable recapitulation, in that maſter tract intitled "A ſhort hiſtory of ſtanding armies in England," by that ſpirited excellent Engliſh Gentleman *John Trenchard.*

* In his bounty he did deliver them and ſoon too, at the moſt noble moſt happy Revolution.

where the goſpell hath of late floriſhed more than in any part of the world, to become a ſlave of the world; he will not ſuffer it to be made a land of grauen images: he will ſtirre up witneſſes of the truth, and, in his owne time, ſpirit his people to ſtand up for his cauſe, and deliver them. I liued in this belief, and am now about to dye in it. I know my Redeemer liues; and, as he hath in a great meſure upheld me in the day of my calamity, hope that he will ſtill uphold me by his ſpirite in this laſt moment, and giuing me grace to glorify him in my death, receaue me into the glory prepared for thoes that feare him, when my body ſhall be diſſolued. Amen.

A GENERAL VIEW OF GOVERNMENT IN EUROPE

INTRODUCTION

Sir,

See the effect of your commands. The want of time, of books, and aſſiſtance in this my retirement, make me very incapable of the undertaking: but my obedience and performance with a kid, will I hope be accepted, when I cannot ſacrifice an hundred bulls.

Without farther ceremony or introduction, according to my apprehenſion, when we enquire into the authority and nature of parliaments, our thoughts ſhould be raiſed above all prejudice and particularities; we ſhould not conceive of them, as of ſome creature, formed and nouriſhed under this or that conſtitution, but have a notion as large and general, as is that of government or civil ſociety.

We muſt not be confined to the writers of this or that age, or country; but conſult the univerſal reaſon and ſenſe of human kind, where civil government has been exerciſed. Much leſs is any particular profeſſion or faction of writers to be the only authors of credit with us, in this enquiry. Our knowledge muſt be ſomething digeſted; and an impartial reſult from a conſideration of all, as well times and countries, as writers and cuſtoms.

The civilians, with their Bartolus and Baldus *, are not to dictate to us on this occaſion. Theſe were bred out of the corruption of the Roman liberty; and were inſtruments of ſervitude from the beginning. Their work was, by hook and crook, to rap and bring all under the emperor's power; that was their ſtudy, that their province. But they were always ignorant of the practices of better times, and utter ſtrangers to the juſt rights of a free people; their rules and their maxims were, in effect, no other, than ſo many ſtripes, ſo many marks, and items of ſlavery to the ſubjects.

Then, for the municipal lawyers of every nation, they alſo are educated under too narrow a diſpenſation to think juſtly in theſe matters. The letter is the ſphere where they ſhew their activity, even ſometimes, to the perverting and turning it againſt the reaſon and intentions of the legiſlator. Their ſmall niceties, and their ſubtleties, and their inferences, are too fine drawn to bear or ſupport a matter of this weight and circumference. Their deductions and argumentations muſt ever be taken with ſome grains of allowance; the cauſe here requires other forms and conſiderations. We are not to ſtick at the letter, but go to the foundation, to the inſide and eſſence of things. By their acquaintance with the cuſtoms and laws, they may aid and direct, but not overrule; they may apply their

* Bartolus de Saxoferrato flouriſhed about the year 1350. Baldus was his ſcholar. The works of the latter are very voluminous. Vide Hiſt. Literar. Hofmanni Lexicon.

their obſervations to ſtrengthen the fundamental reaſon, but are not to perplex and ſubvert the form of government.

My lord Coke tells us, parliament is derived from parler le ment, i. e. from ſpeaking the mind *. He might as honeſtly have taught us that firmament is firma mentis, a farm for the mind; or fundament, the bottom of the mind. My lord Coke, how ſage ſoever otherwiſe, in parliament-houſe is no more authority than Thomas Aquinas. And take him from his ordinary element, his reaſons are many times as ridiculous as his etymologies.

Then for the holy Scripture; the deſign of it is no more to teach us politics, than to make us philoſophers. Ahaz's dial is no precedent for our time or meaſures; nor may the Theocracy of the Jews authorize us to ſet up for king Jeſus. Our bleſſed Saviour did not diſtinguiſh whether Caeſar demanded tribute, as tribune and ſervant of the people; nor whether the Roman empire remained ſtill democratical, as Caeſar pretended, or was monarchical, as, in effect, it proved. The Holy Ghoſt neither altered the complection, nor refined the education; but a ſhepherd, notwithſtanding the oracles he delivered, continued the ſame in other circumſtances, as if he never had been inſpired. In like manner, whereever Chriſt is preached, the ſoul-ſaving doctrine in no wiſe operates upon the policy or civil conſtitutions; but leaves thoſe affairs to be influenced by ordinary prudence and diſcretion.

Whether therefore it be ſome particular generoſity in our nature, that renders us impatient of ſlavery; or whether the temperateneſs of the climate inclines us to a moderation in our government; or whether it may be ſome favourable aſpect of the planets, as Ptolomy would perſuade us, that diſpoſes Europe to the love of liberty; ſo far as any record or hiſtory can inform us, that arbitrary and unlimited domination, ſo familiar in the eaſtern parts of the world, amongſt us did always ſhew uncouth, and to be ſtared upon no leſs than their elephants: and indeed to us ſeem altogether inconſiſtent with a civil people. And it can be no more the buſineſs of the goſpel to reconcile us to that yoke, than it is to emaſculate our complection and nature, to change the temper of our climate, or to turn our ſtars from their courſe.

SECTION I

OF THE ORIGIN, POWER AND ANTIQUITY OF PARLIAMENTS

All power is from God, and we are to be ſubject to the higher powers: this all conſent to; this is doctrine alike true in Holland as in France, at Venice as at Conſtantinople. But where this high power and ſovereignty reſts, in whom it is lodged, this is a point not ſo obvious: nor can the Scriptures or holy fathers any way help us in the diſcovery. The cuſtoms

* Coke's Inſtitutes, p. 1. b. 2. § 164

cuſtoms and particular laws of every nation are only capable to direct us in that ſcrutiny.

Obedience is as much a duty, and rebellion as black a ſin, where the people are king, as where a ſingle perſon has the ſovereign ſway.

The title of king, monarch, or emperor, the ſcepter, the crown, the royal throne, with all the robes and pomps, and badges of ſovereignty, and the precedency before other chriſtian kings, have the ſhadow of majeſty, but have none of the ſubſtance, as Bodin truly obſerves.

The Caeſars were never ſo abſolute, as when the ſenate had the ſhew, and the name of all. But afterwards when their power declined, then did their ſhadows lengthen, and their titles ſwell beyond all ſobriety and proportion.

The French parliaments in their ſcarlet robes, know none of that ſovereign power which their plain anceſtors ſo long had exerciſed in their grey jackets.

The pontificalibus and formality derogates from the antiquity and independency; and our houſe of commons may ſeem in a manner, if I may ſo ſay, to have committed ſome kind of ſoleciſm, in taking a mace to be carried before them, but that their ſimplicity and plainneſs otherwiſe ſufficiently demonſtrates them the true, ſincere, original, fundamental common-council, conſtituted and formed before forms and pageantries and fopperies obtained in our Engliſh world. For badge and ornament they had Jupiter's ſceptre; which Plato interprets to be, not a tipt batoon, or glittering engraven thing, but the laws and legiſlative power.

Homer has taught the world to call kings paſtors of the people. We commit not the charge of our cattle to any one of the herd, nor for our ſheep do we chooſe one out of the flock to be their ſhepherd; but ſet over them a more excellent ſort of animal; ſome man is appointed for the neatherd, and for the ſhepherd, to govern and take the charge of them.

Now ſince for the conduct and ſway over men, the world is not furniſhed with any ſpecies more noble than man, art ſupplies what is wanted in nature; an artificial man is framed a politic creature, a king that never dies, that can do no wrong, that cannot be deceived, whoſe councils and determinations are the reſult of the joint experience and wiſdom of a whole nation.

Now whether this artificial creature, may be called a mixed ſort of government, as the ancients imagined; or it is originally, eſſentially, and fundamentally a democracy, monarchical in the adminiſtration, as Bodin and our modern politicians ſeem to underſtand, this certainly is the government that always has obtained in Europe; and that which all, amidſt their commotions, diſtractions, and convulſions, in ſome manner or other, with more or leſs ſucceſs and perfection, have tended to, as their centre, and only place of reſt.

If therefore the Jews had deſired a king after the manner of the Europeans, their importunity peradventure might not have been ſo provoking to the Almighty; and we ſhould have found another kind of catalogue of

their fair qualities, than that delivered us by the prophet: for, however their Aſian or African neighbours might have domineered it, and bluſtered, a calmer gale was always wont to breathe amongſt us in Europe; and, God be thanked, we are many degrees northern latitude from Og the king of Baſhan, and the lands of thoſe other giants, Amalekites and Philiſtines.

The firſt writers amongſt us had their imaginations ſo over borne with the excellency of kingly government, that they fancied in heaven Jupiter to be the king of the gods: and yet they thought the common council ſo neceſſary and eſſential, that Homer repreſents even Jupiter, upon a great occaſion, calling his Θεων αγορην, his parliament of the gods.

Ζευς δε θεων αγορην ποιησατο τερπικεραυνος,
Ακροτατη κορυφη πολυδειραδος Ουλυμποιο *.

I have heard divines obſerve ſomething of this kind, as figured of God Almighty from thoſe words, "Let us make man." Thoſe words in the plural number to them ſeemed to import, as if God ſummoned a parliament of the Trinity, to conſult upon that arduous affair.

Our chriſtian poets have taken the ſame liberty, and fancied this, as an image of greatneſs, where could be no acceſſion to the wiſdom and omnipotence.

But again, Homer (whom Plato in his book of laws mentions as a prophet, and one who reveals thoſe things concerning government by inſpiration, which are not by human knowledge to be attained) to ſhew the utmoſt inhumanity and barbarity of the Cyclopes, and their government, tells us, they neither held parliaments for council, nor had right.

Τοισιν δ' ετ' αγοραι βελητοροι, ετε θεμιστες †.

He joins parliament and right, as of late days Guicciardini does parliament and liberty; as if parliament, right, and liberty, were to ſtand and fall together.

And indeed amongſt the Greeks, how many perſons, excellent otherwiſe, have been branded for tyrants and monſters, and made odious to all poſterity, becauſe they affected a more ſingular and unbounded power than was conſiſtent with the cuſtoms and conſtitutions of their country?

Nor was this policy leſs known or practiſed by the Latins. None of the ancient kings of Italy or Rome exerciſed other government than by parliament, till Tarquin the Proud with much ſtratagem and artifice attempted a new way: but how fatal did he find that innovation?

Afterwards when the Caeſars uſurped the empire, when their power was the higheſt, they affected to have all done in the name of the people and ſenate. "Neque tam parvum quidquam, neque tam magnum publici "privatique negotii fuit, de quo non ad patres conſcriptos referretur ‡." And, notwithſtanding the ancient liberty and government was ſo run down, yet, on ſome occaſions, the authority of the ſenate would be exerting itſelf.

* Jupiter verò deorum concilium habuit gaudens fulmine,
Summo in vertice multa-cacumina-habentis Olympi. Il. 8. v. 2
† Illis verò neque conciones conſiliariae, neque leges. Odyſſ. 9. v. 112
‡ Sueton. in vitâ Tiberii, § 30

[To front p. 341.]

A GENEALOGICAL TABLE; shewing the Deſcent, Affinity and Order of Succeſſion of the KINGS and PRINCES of WALES, according to Dr. Powel's Hiſtory of Wales, 1584, 4to.

†††† In the ſeveral deſcents only ſuch of the iſſue are mentioned, as ſhow the order of ſucceſſion, or were remarkable.

Although this Genealogy is chiefly formed from Dr. Powel's Hiſt. ſome Additions are made from Dugdale's Baronage, and other good Authorities.

*** The numbers ſhow the ſucceſſion of the Princes of North Wales, who had ſuperior overeignty over the reſt.

I. King Cadwallader, the laſt king of Britain, ob. 688.

Prince Edwal the Roe, ſon of Cadwaller, obiit. 720.

II. King Ivor of Bretagne regained the Weſtern parts of England from the Saxons, circ. 688.

III. King Roderic Molwynoc, king of Wales, ob. 750.

Neſt, ſiſter and heir of the king of Powis.

IV. King Conan Tyndaethwy, king of Wales, ob. circ. 818.

V. King Mervyn Frych, ſlain 843. — Princeſs Eſylht, only da. of king Conan. — King Meyric, king of Cardigan.

VI. King Roderic, the Great, ſlain 877. — Angharad, heireſs of South Wales.

PRINCES OF NORTH WALES.

VII. Prince Anarawd had North Wales, ob. 913; began his reign 877.

Pr. Mervyn, prince of Powis, ob. ſ. p.

PRINCES OF SOUTH WALES.

Prince Cadelh had South Wales, and got Powis, ob. 907.

Eliſe, 2d ſon of Anarawd, ſlain 940.

VIII. Prince Edwal Voel, ſlain 940.

IX. Prince Howel Dha, or the Good, Prince of South Wales, was choſen king of all Wales, 940; died 948.

Blegorad, a lawyer, under Howel Dha.

Trawſt, wife of Sitſylt.

Meyric, ſet aſide by his brother.

X. Pr. Jevaf, began 948, depoſed ob. 987.

XI. Pr. Jago.

Three other ſons.

Pr. Owen, prince of South Wales.

XVI. Pr. Aedan ap Blegorad; ſeized on North Wales, 1003; ſlain with his four ſons, 1015.

PRINCES OF POWIS.

XVII. Pr. Llewelyn ap Sitylt, reigned 1015.

Princeſs Angharat, of Powis.

XV. Pr. Edwal ap Meyric, gained N. Wales in 992.

XII. Pr. Howel ap Jevaf, began circ. 972. ſl. 984.

XIII. Pr. Cadwalhon, ſlain 985.

XIV. Pr. Meredith ap Owen; began his reign 985; loſt N. Wales in 992; ob. 998.

Eneon, died in the life time of his father, 981.

XIX. Pr. Gryffyth ap Llewellyn, reigned 1037; ſlain 1060.

XVIII. Pr. Jago ap Edwal, got N. Wales; was ſlain, 1037.

Conan, ſlain 1003.

1ſt huſb. Pr. Llewellyn ap Sitſylt, of N. Wales, reigned with his wife, 1015.

Princeſs Angharat, only da. and heir, reigned 1015.

2d huſb. Pr. Convyn ap Gweriſtan.

Pr. Tudor Mawr, of S. Wales, ſlain by Pr. Edwal ap Meyric, 997.

Edwin.

Fleance, ſon of Banquo, fled from k. Macbeth.

Neſta, da. of Gryff.

XXII. Pr. Trahern ap Caradoc.

Conan lived in Ireland.

Ranulpha, da. of Alfred, king of Dublin.

See the other ſide. XIX. Pr. Gryffith.

XX. XXI. Pr. Blethyn ruled in N. Wales with his brother, 1060; ſlain 1073.

XX. Pr. Rhywallon, 1060, ſlain 1068.

Pr. Howel, of S. Wales, ſlain 1042, ſ. p.

Meredith, ſlain 1031, ſ. p.

Walter Steward, of Scotland.

Bernard Newmarch, lord of Brecknock.

Neſta.

Lewarch.

XXIII. Pr. Gryffith ap Conan ruled circ. 1077, ob. 1137.

Pr. Meredith, of Powis, ob. 1132.

Cadogan.

Owen, &c.

Gladuſe.

Prince Rhys ap Tudor, ſlain 1030, by the Normans, who divided South Wales among them.

Sybille, wife of Milo, earl of Hereford.

Mahael, diſinherited by his mother.

XXIV. Pr. Owen Gwineth, ob. 1169.

Gladuſe, da. of Llewarch.

Sufanna.

Pr. Madoc had Powis Madoc, ob. 1160.

Pr. Gryffith had Powis Wenwinwin.

Gryffith ap Rhys, d. 1102.

Gwenlhian, da. of Pr. Gryffith ap Conan.

A da. *wife of Rob. de Baſkerville of Erdeſley.*

1ſt huſb. Gerald de Windſor, Gov. of Pembroke Caſtle.

Prſs. Neſta *had by king Henry II. a nat. ſon.*

2d Stre Cou of gan

Berta, wife of Philip de Braoſe, lord of Brecknock.

Madoc diſcovered America, 1170.

Roderic lord of Angleſea, &c.

XXV. Pr. David ap Owen.

Emma, ſiſter of H. II.

Jorwerth, ſet aſide for an accident in his viſage.

Marret.

Pr. Gryffith Maelor, lord of Powis.

Gwenlhian

Lord Rhys, d. 4 May, 1197.

The Fitz Geralds, conquerors of Ireland.

Robert, earl of Glouceſter.

Th Ste con Ire

William de Braoſe, whoſe wife and eldeſt ſon were famiſhed to death by k. John.

Owen.

Joan, natural da. of king John, marr. 1203.

XXVI. Pr. Llewellyn ap Jorwerth, the Great, ob. 1240.

Another wife.

Madoc founder of Vale crucis Abbey, 1200.

Gryffith ap Rhys, d. 1202.

Maud, ſiſter of Reginald de Braoſe.

.... a da. *wife of Will. Martin, of Kemeis-caſtle, in Pembroke-ſhire.*

Other iſſue.

Reginald de Braoſe, 2d ſon.

Prſs. Gladuſe, wife of Ralph lord Mortimer, of Wigmore.

XXVII. Pr. David, ob. 1246, ſ. p. marr. Iſabel, da. of Will. de Braoſe the younger.

Gryffith, *nat. ſon.*

Senena, da. of Cariadog ap Thomas, ap Roderic, lord of Angleſea.

Marret, *wife of Walter lord Clifford, nephew of Roſamund.*

Gryffith lord of Dinas Bran, d. 1270.

Rhys ap Gryffith, ob. circ. 1222.

Owen ap Gryffith, d. 1236.

William de Braoſe.

Maud, da. of Will. de Braoſe.

Roger, lord Mortimer, true heir to the Principality of Wales, by his mother.

* Eleanor, da. of Simon Montfort, earl of Leiceſter, marr. 1278.

XXVIII. Pr. Llewellin ap Gryffyth, ſlain 1282. ſ. p.

1 David, executed 1284.

3 Owen Goch.

Gryffith, 3d ſon, had Glendowrdwy.

Rhys ap Rhys.

Gwenlhian, wife of Gilbert Talbot, heir to her nephews: hence the Talbots have ever ſince born the arms of the princes of South Wales, viz. Gules, a lion rampant, in a bordure engrailed Or.

Meredith ap Owen, lord of Iſcoed, died 1267.

Madoc Cruplc.

Cymerich. Meredith. Theſe two were impriſoned and deprived of their eyes by king Hen. III.

Owen.

Madoc Vachan.

Llewellyn.

Gryffith, of Ruſhalt.

Iſabel, *w. of John Fitz Alan, earl of Arundel.*

Edmund Mortimer.

* Catharine, only da. — Philip ap Ivor.

Thomas, lord of Iſcoed, married Eleanor, ſole da. of Phil. ap Ivor. See the central line.

Eleanor, wife of Henry lord Percy.

Roger I. earl of March.

Eleanor, wife of Thomas lord of Iſcoed.

Edmund Mortimer.

[His grandſon Edmund, IIId earl of March, marr. Philippa of Clarence, gr. da. of king Edw. III. and had iſſue Roger IVth earl, from whom the HOUSE OF YORK

Joan, *wife of James lord Audley.*

Tudor ap Grono. — Eleanor.

Elena. — Gryffith Vachan.

Meredith, father of OWEN TUDOR, the grandfather of king HENRY VII.

OWEN GLENDOWR, d. 1415.

[* Eleanor, wife of XXVIII. Pr. Llewellin, died in child-bed, and k. Edw. I. ſent the in-

itſelf. They declared Nero an enemy of the ſtate, and their ſentence had its effect. Nor could the Delight of human kind, Titus, though ſo far engaged in love and honour, ſtem the authority of the ſenate, in favour of his dear Berenice; but was forced to diſmiſs her, becauſe they forbad the banns. And in effect, the power of the ſenate once gone, that of the emperors ſignified little; the giddy ſoldiers broke all rules and meaſures. They mutinied, and made and unmade emperors, where, and when, and whom they had a mind to. So that the emperor was only tenant at will to the army.

SECTION II

OF THE ANCIENT CONSTITUTION OF ENGLAND, BOTH UNDER THE BRITONS AND SAXONS

Our botchers of hiſtory ſhew a jolly ſucceſſion of monarchs on their file for Britain in thoſe days: but Cæſar's Commentaries are of much better credit, who repreſents the government of Gaul and Britain, as much the ſame in his time; he ſays of Britain, "ſumma imperii bellique ad-"miniſtrandi, communi conſilio, permiſſa eſt Caſſivellauno, &c*." The chief command and conduct of the war, was by the common council committed to Caſſivellaunus. Compare theſe words with what he writes of the Gauls: "Re in controverſiam deductâ, totius Galliae concilium "Bibracte indicitur. Eodem conveniunt undique frequentes: multitudinis "ſuffragiis res permittitur: ad unum omnes Vercingetorigem probant "imperatorem †." Here the council of all Gaul, by reaſon of the war, put it to the vote who ſhould be their general; and it was carried with a nemine contradicente for Vercingetorix. And it is beyond diſpute, that their government continued the ſame in the times of which Dion Caſſius and Tacitus write. Nor is their uniformity ſo ſtrange, conſidering the authority of the Druids, and their correſpondence in both nations.

When the Engliſh and French came from Germany to people Britain and Gaul, the German liberty and moderate ſway were tranſplanted with them; and ſtill the common council had the main ſtroke in all weighty affairs; for to that policy had they alſo been educated. The ſcheme of the German government appears in theſe paſſages of Tacitus. "De "minoribus rebus principes conſultant, de majoribus omnes ‡." In leſſer matters the principal men only, in the greateſt affairs all conſult. Elſewhere he ſays of them, "Ubi rex vel princeps audiuntur, authoritate "ſuadendi magis quàm jubendi poteſtate §." Where the king or prince are heard for the reaſons they bring to perſuade, rather than for any authority to

* Cæſar de Bello Gall. l. 5. § 9
‡ Tacitus de morib. Germ. § 11
† Ib. l. 7. § 57
§ Ibid.

to command. Hereby it is manifeſt, that in Germany alſo the people had their ſhare in debating and directing all affairs of moment.

When therefore the French under Waramond, or Pharamond, came to ſettle and mix with the Gauls, whatever other differences might happen, in point of government they were agreed beforehand, both reſting upon the ſame baſis, the common council. Accordingly in thoſe firſt days, we find them making their kings, and again, upon occaſion, unmaking them by general conſent. Hence come theſe phraſes ſo frequent in Aimoinus, Sigebert, Eginhardus, and the other writers of thoſe times. "Conſenſu omnium Francorum rex conſtituitur *, electione Francorum †, "ſecundum morem Francorum electus in regem ‡." On the other hand, "Franci regno deturbant, à Francis repudiatur, depoſitus ac detonſus in "monaſterium detruſus eſt, à Francis in monachum tonſoratur, &c ‖." Where we may note, that our authors intend by their "per Francos" as much as "per conſenſum Francorum," or "ſecundem morem Francorum," which is, by the common council, and not in any unuſual, mutinous, and tumultuous way, as ſome might object.

Nor are we to imagine the government preſently altered, as often as we find the hiſtorians varying their phraſe. We muſt now and then be content with ſuch words as the monks of thoſe times were pleaſed to coin for us, and have new barbarous names for the ſame old civil conſtitution. Whether they ſpeak of Germany, of the French, or of our nation, they indifferently diverſify, and employ for the ſame common aſſembly amongſt others, the appellations and circumlocutions following. Sometimes they call it curia, and curia imperialis, and curia regalis, curia ſolennis, generalis curia, magna curia.

"Concelebranda patrum ſolenni curia coetu §,
"Curia Roncaliis jampridem indicta coïret ¶,"

ſay their poets: which is expreſſed in the German tongue, by "hof, "königlicher hof, groſſer hof." Elſewhere it is called "congregationes," which the Germans render "reichſverſammlung." Sometimes it is called "concilium principum, totius Germaniae concilium, concilium generale." Gunther ſays,

"Concilium procerum toto de corpore regni
"Convocat **."

And the monk of Paderborn, who lived about eight hundred years ago, in his annals of Charles the Great,

Et

* Vita Karoli Magni per Eginhardum ſcripta, § 2

† Pipinus ex electione Francorum factus eſt rex. Gotfridi Viterb. Chron. pars 17. c. 4 Sigeberti Chron. ſub anno 750 ‡ Reginonis Chron. ſub anno 750

‖ Hildericum Franci regno deturbant. Sigeberti Chron. ſub anno 461.—Carolus imperator, corpore et animo deficiens, ab optimatibus regni repudiatur. Ibid. ſub anno 890. —Depoſito ac detonſo rege Hilderico. Hermanni Contr. Chron. ſub anno 750.—Detonſo Hilderico et in monaſterium detruſo. Otto Friſing. l. 5. c. 23.—Hildericus rex Francorum in monachum tonſoratur. Sigeberti Chron. ſub anno 750

§ Guntherus de Geſt. Friderici I. l. 6. Vide Scriptores Rerum Germ. per Reuberum editos, p. 371. Edit. Franc. 1584

¶ Ibid. l. 9. p. 425 ** Ibid. l. 1. p. 292

Et rex Wormatiam Carolus collegit in urbem,
Francorum proceres ad concilium generale *.

" Poſtquam imperialia concilia ceſſavêre, penè omnes deformitates ſunt " introductae," ſays cardinal de Cuſa †. Elſewhere theſe were called " conventus, conventus generalis, conventus publicus, convenire generaliter " populum ſuum praecepit. Habuit populi ſui generalem conventum ‡. " Habitoque juxta morem generali conventu ‖." The monk of Paderborn thus verſifies.

" Ad Duriam vicum properant: nam rege jubente,
" Illic conventus populi generalis habetur §.
" Venit, et ad fontes fluvii, cui Lippia nomen,
" Conventum fieri procerum juſſit generalem ¶.
" Publicus in Paderbrunno conventus habetur **."

Moſt commonly it was called placitum.—Rex Pipinus tenuit placitum ſuum in Compendio.—Habuit placitum generale Francorum ††. Rex Pipinus habuit placitum ſuum in Nivernis. Regino, Anno 763 ‡‡. —Anno 777, Placitum tenuit in loco, qui dicitur Padreſbrunnâ.—Abbas Stadenſis in Chr. Anno 811. " Imperator habito placito generali ‖‖." And the aforeſaid monk,

" ——Conventum placiti generalis habere,
" Cum ducibus ſe velle ſuis denunciat illic §§."

Regino calls it " ſynodus. Anno 770, Carolus habuit ſynodum in " Wormatiâ."—Anno 771, " ſynodum habuit ad Valentianas."—Anno 772, " ſynodum habuit in Wormatiâ."—Anno 775, " habuit ſynodum " in villâ quae dicitur Duria."—Anno 780, " venit ad locum ubi Lippa " conſurgit, et ibi ſynodum tenuit.—Convenerant multi epiſcopi, abbates, " et principes ad imperialem ſynodum ¶¶." Afterwards in Germany, diet was the name that generally prevailed, as that of parliament in France and England.

Now theſe quotations and authorities ſhew, not only that by all this variety of names were underſtood the ſame common council, but that the " principes, proceres, primores, duces, patres, etc." imported no more in truth, nor ſignified other manner of men, than the very ſame with " populus."

And

* Poetae Saxonici Annales de Geſtis Caroli Magni, l. 1. ſub anno 772. Vide Hiſtor. Franc. Script. à Du Cheſne editos, vol. ii. p. 136

† De Concord. Cathol. l. 3. c. 33

‡ Eginhardi Annales ſub anno 770

‖ Ibid. ſub anno 779

§ Poetae Saxonici Annales ſub anno 775

¶ Ibid. l. 2. ſub anno 782

** Ibid. l. 2. ſub anno 785

†† Annales Metenſes, ſub annis 757 et 763. Vide Script. Rer. Francarum à Du Cheſne editos, vol. iii

‡‡ Chronica Reginonis. Vide Script. Rerum Germ. à Piſtorio edit. vol. i

‖‖ Alberti, Abbatis Stadenſis, Chronicon, ſub anno 811

§§ Poetae Saxonici Annales, ſub anno 777

¶¶ Trithemii Chronica Monaſt. Herſaugienſis, ſub anno 838. p. 6

And the ſame aſſembly by one writer barely called "populus," or "con-" "ventus populi," is by another ſtiled "conventus procerum, conventus "principum, etc." which thoſe terms "ſecundum morem, juxta morem, "more ſolenni, ut ſolebat," more fully demonſtrate; which ſeem to refer and ſend us back to Tacitus: "Conſultant de majoribus omnes." This I the rather note, becauſe I find Mr. Petty (amongſt many other excellent memorials) obſerving the like in old records of parliament, where thoſe ſomewhere called populus, and vulgus, and the commons, are otherwhiles dignified with the gay additions of Noble, Moſt Noble, Moſt Illuſtrious, Moſt Gracious, Seigniors, Monſeigniors, and Sires the Commons; and likewiſe, for that ſome unwary and ſuperficial readers, from this root, have propágated and improved many errors of pernicious conſequence to our antient and fundamental policy and government.

The French, incorporating and growing one people with the former inhabitants, had a much eaſier province; they ſettled, and purſued their native cuſtoms and forms of government, nor met with that difficulty and oppoſition which in this nation attended the Engliſh and Saxons. Theſe had a much harder game to play. Theſe could in no wiſe fix, or find any ſure footing, without firſt clearing their way, and driving the Britons up by themſelves, into a corner of the land. And after much tumbling and buſtle, we find them formed into a heptarchy. How regularly they moved as to civil affairs, how cloſely they followed their country-cuſtoms, or where they innovated and varied from their German forms and policy, in thoſe dark times, is hard to be traced.

Some footſteps however appeared then, which remained to poſterity: as the diviſion of the country into hundreds, after the German manner deſcribed by Tacitus; beſides the other royalties in the people: as that of appointing ſheriffs, and chooſing annual magiſtrates, the juriſdiction and power of life and death by our juries, etc. And, even before all came united under one monarch, we find the people interpoſing their authority, and, for the miſcarriages of queen Eadburgâ *, providing that thereafter, "no queen ſhould ſit by the king, nor have the title of queen, but be "called only the king's wife. Gens namque occidentalium Saxonum "reginam juxta regem ſedere non patitur; nec etiam reginam appellari, "ſed regis conjugem permittit †." But I ſhall not repeat what Camden and Selden, and our other antiquaries have collected on this occaſion; but Germany being the ſource both of our people and laws, I chooſe rather "petere fontes:" and thence it may be concluded how far we do "ſtare ſuper vias antiquas," and continue firm upon the old bottom.

* Haec infamia ab Eadburgâ, Offae regis filiâ, ejuſdem generis reginâ, exorta eſt, quae virum ſuum Brithricum veneno perdidit, et juxta regem ſedens, omnes regni nobiles accuſare ſolebat. Mat. Weſtm. ſub anno 854.

† Aſſerus de Aelfredi Rebus Geſtis, ſub anno 855.

SECTION III

OF THE GERMAN EMPIRE, THE ELECTORS, THE ENCROACHMENTS OF CAESAR, AND THE GOLDEN BULL.

When the people and ſenate of Rome had transferred all their right upon Charles the Great, or Charlemagne, as the French call him, and Germany was made the ſeat of the weſtern empire, one might think, if there could be an opportunity of introducing a new form of policy, this was the time. Yet Charles, ſo victorious, ſo auguſt, ſo great, the like in no age before him or ſince ever known on this ſide the Alps, notwithſtanding all that power and fortune, and the imperial crown that adorned him, his language was ſtill the high German, and his government did ſtill in the old parliamentary way go on and proſper. Therefore we find him every year with his parliament. Eginhardus, who was his ſon-in-law, and chancellor, ſays of him: "Rex ſic ad publicum populi ſui con-"ventum, qui annuatim ob regni utilitatem celebrabatur, ire, ſic domum "redire, ſolebat *." And Aimoinus, "generalem conventum quotannis "habuit †."

And to theſe parliaments, under God, ſo far as human reaſon may judge, does Hincmar, archbiſhop of Rheims, and chancellor in thoſe times, aſcribe his happy reign. "Secunda diviſio, quâ totius regni ſtatus, antepoſito, "ſicuti ſemper et ubicunque, omnipotentis Dei judicio, quantùm ad "humanam rationem pertinebat, conſervari videbatur, haec eſt. Conſue-"tudo autem tunc temporis talis erat, ut non ſaepiùs, ſed bis in anno "placita duo tenerentur. Unum, quando ordinabatur ſtatus totius regni ad "anni vertentis ſpatium, quod ordinatum nullus eventus rerum, niſi ſumma "neceſſitas, quae ſimiliter toto regno incumbebat, mutabat. In quo "placito generalitas univerſorum majorum, tam clericorum quàm laicorum, "conveniebat. Aliud cum ſenioribus tantùm et praecipuis conſiliariis ‡.

All this ſeems but a paraphraſe upon the paſſage afore-cited out of Tacitus, as to the form of government. The princes and ſeniors are for the matters of leſs weight; the former here mentioned, was the "generale "placitum," which the Germans more particularly call, "die jährliche "verſammlung," the yearly aſſembly; whoſe buſineſs (he tells us) was "to order the ſtate of the kingdom."

He ſhews us likewiſe how binding theſe their ordinances were, and not to be contravened, unleſs upon the utmoſt neceſſity; not a ſuggeſted, inviſible, court-neceſſity, but "quae toti regno incumbebat," a neceſſity that lay upon the whole kingdom. In effect, the parliament ordered, and he executed their orders; his office was the adminiſtration.

Amongſt

* Vita Karoli Magni per Eginhardum ſcripta, § 1.

† Annonius [Aimoinus] De Geſtis Francorum, l. 4. c. 74. Edit. Paris. 1514. Eginhardi Annales ſub anno 782

‡ Hincmarus ad Proceres regni, § 29. Vide Hincmari Opera, vol. ii. p. 211. Edit. Paris. 1645.

Amongſt other particulars, we find him in parliament adjuſting the matter of ſucceſſion, as Eginhard and the abbot of Staden, anno 813, inform us; of which the monk of Paderborn:

" Unde duces, ac primores ſolenniter omnes
" Atque magiſtratus, ad concilium generale
" Undique collegit, natoque ſuo Ludovico
" Cunctorum cum conſilio jus omne regendi
" Tradidit imperii, ſucceſſoremque paterni,
" Impoſito deſignavit diademate, regni *."

And accordingly his ſon Lodowic by general conſent of parliament did ſucceed him. " Poſt mortem patris, Aquiſgrani ſummo omnium Francorum " conſenſu adminiſtrationem accepit †." The ſame author tells us that this Lodowic, " Lotharium filium primogenitum conſortem imperii conſtituere " volens, Aquiſgrani in conventu, more ſolito, inſtituto, eum coronavit ‡."

In like manner we have the ſon of Arnulph choſen in parliament to ſucceed his father. " Proceres et optimates ad Forachem congregati, Ludo- " vicum filium praefati principis, quem ex legitimo matrimonio ſuſceperat, " regem ſuper ſe creant, et coronatum, regiiſque ornamentis indutum, in " faſtigio regni ſublimant ‖."

Nor was this done only out of formality, and for the greater ſtate and ſolemnity on thoſe occaſions; for we ſometimes find them refuſing to grant what the emperor laboured to obtain. Amongſt other inſtances, we have this laſt named Arnolph attempting to get the parliament to make his ſon Zundibolch king of Lorrain. But they would not gratify him. " Wormatiam venit, ibique placitum tenuit volens Zundibolch filium " ſuum regno Lotharii praeficere; ſed, minimè optimates praedicti regni " eâ vice aſſenſum praebuerunt §." But the next year he prevailed, ſays the ſame author: " In conventu Wormatiae, omnibus aſſentientibus atque col- " laudantibus, Zundibolch filium regno Lotharii praeficit ¶."

Hitherto theſe appear to be the ſame Germans, " ubi rex vel princeps " audiuntur, authoritate ſuadendi magis quam jubendi poteſtate **." And ſeeing that this of ſucceſſion is one of thoſe points that are of greateſt importance, it is ſtrange how the right of electing the emperors came afterwards to be left in ſo few hands, and to be ſettled in the ſeven only, who, in courſe of time got the name of princes electors. Neither the occaſion, nor the time when this cuſtom began, can be diſcovered. Some would deduce it from Charles the Great. Some from Otho the third, who reigned about the year 990. Others from Otho the fourth, an. 1200. Others again from Henry the ſecond, who was emperor, an. 1001. From which uncertainty we may only gather, that the cuſtom was very ancient: but it is not to be imagined that the other ſtates by any public act transferred the right upon thoſe ſeven.

Among

* Poetae Saxonici Annales, ſub anno 813
† Eginhardi Annales, ſub anno 814
‡ Ibid. ſub anno 817
‖ Chron. Reginonis, l. 2. ſub anno 900
§ Ibid. l. 2. ſub anno 894
¶ Ibid. l. 2. ſub anno 895
** Tacitus de Morib. Germ. § 11

Among the fallacies and cheats of ſtate, whereby the rich men may impoſe upon the poorer ſort, and worm them out of all their ſhare in the government, Ariſtotle reckons theſe: "That it be penal for the rich to be "abſent from the common councils, to refuſe being in office, to want, or "omit the exerciſe of arms, not to ſerve upon juries," etc. "But the "poorer ſort may uſe their diſcretion, it ſhall not be penal to them; "they may chooſe whether or no they will be preſent in common council, "bear office, be at the charge of arms and training, be empannelled upon "juries," etc*. In theſe caſes this ſpecious liberty fools and bewitches them: for, ſo long as no reſtraint is upon them, and they are not excluded or ſlighted, or diſreſpected any way in the matter, they rather follow their private occaſions at home, and the buſineſs of their family. And thus by degrees inſenſibly is the commonwealth and government changed; and that is effected by art and trick, which openly and fairly could never have been brought to paſs.

We need not think that the Germans were over-reached by any the like ſophiſtry and deceitful laws; but it is likely, that to many it was ſufficient that it lay in their choice whether they would act or no; and in that ſecurity many ſat down. Some could not conveniently ſpare time from their family; ſome were indifferent which way the world went; ſome could not part from their dear delights, their pots and their hounds; and ſome ſtaid at home, becauſe they could not make that ſhew, and appear in a pomp and equipage like their neighbours. By reaſon of theſe, and many the like weighty conſiderations, together with a general degenerateneſs, ſupineneſs, and neglect of the public, the affairs of ſtate became abandoned, and ſhuffled into a very few hands; inſomuch that few beſides thoſe few now called the ſeven electors, made any great figure, or much laboured in that ſphere. But thoſe ſeven were ſuffered from time to time by a ſilent uſurpation to manage all, till inſenſibly it grew into a cuſtom. So that (under Charles the fourth, when the privileges and rights of every body came to be ſtated, and reduced by general conſent into a ſtanding law) in the beginning of the Golden Bull, this miniſtry of the ſeven electors is ſaid to be "an ancient and laudable cuſtom."

Some will have theſe electors to be a committee of the whole empire, and that (there being one king, one duke, one marquiſs, one count, with the churchmen) all the ſeveral orders in the empire are repreſented by them; and conſequently that their act is virtually the act of the empire. But it ſeems more reaſonable, that this ſort of ariſtocracy ſprung up to overtop the ancient more popular government, by the negligence or inadvertency of the other orders; who were ſatisfied in ſeeing the emperor thereby effectually held within compaſs, and had no care or conſideration farther. For all their fears and apprehenſions had riſen from the emperor, and provided they might be ſecured againſt his encroachments and oppreſſion, they were content to ſet up thoſe electors, to oppoſe the emperor, and ſtand as a bulwark betwixt him and them. And therefore by

* Ταυτα μεν εν ολιγαρχικα σοφισματα της νομοθεσιας, &c. Vide Ariſt. de Repub. l. 4. c. 13.

by their free act in the Golden Bull, they ſettle and confirm to the electors that prerogative, which no preſcription otherwiſe could have made juſt and authentic.

Above an hundred years before, in the church had the government changed face; an ariſtocracy obtained, and the election of the pope ceaſed to be any longer popular. About the ſame time, in England alſo, the old laws and policy ran a dangerous riſk from an inundation of arbitrary power, that threatened to break down all the ancient banks and barriers. For the Normans, having come amongſt us, partly by conſent, partly by force, puffed up and wanton with their new acquiſitions and ſwing of fortune, they could not well be kept within bounds. Now and then ſpeeches of conqueſt and holding by the ſword, and the like bug-titles, were bandied to and fro amongſt the giddy courtiers, with now and then a ſally and inroad upon the people, trampling property under foot. Theſe inſolences and invaſions kept the nation awake, and put them upon their guard, to wait an opportunity whereby their ancient rights and cuſtoms might be reduced into form, and ſolemnly recognized by ſucceeding kings in the Great Charter. Thus was the cockatrice cruſhed in the egg; and an early ſtop put to arbitrary ſway in England; and the government returned to its old centre of parliaments again.

Germany, in this juncture, lay moſt open and expoſed: the emperor, lord of the world, and head of the nations, ſucceſſor to thoſe Caeſars that had broken down all forms and fences, ſo that liberty and property lay waſte every where before them. Theſe owed all their power to the ſword. The imperial crown, the lex regia, the whole bulk and body of the civil law, were wholly and entirely their own proper creatures; and what more might be deviſed to make a prince unlimited, uncontrolable, great and barbarous, and render him a Cyclops or a Leviathan?

But the reſult was, the cuſtoms and liberties of the Germans were far more ancient and more ſacred to them, than any new ſong that the civilians could teach them. Therefore all this long rattle of imperial prerogative only armed them, and made them provide the better for their ſecurity. And as their danger was the moſt threatening, and armed with ſtronger titles and pretenſions than in other nations, ſo have they with more care ſought their preſervation: and the golden bull with them was framed, and had the ſame effect as Magna Charta with us; which they ſtrengthen and make ſupplements to, by new capitulations upon occaſion, according as the emperors abuſe their power, or tricks are deviſed, by colour of the letter, to elude the honeſt intention of that fundamental law and conſtitution.

Thus we ſee it true, in reſpect of ſovereigns, as well as of ſubjects, that evil manners are the cauſe of good and wholeſome laws.

SECTION IV

OF THE FRENCH GOVERNMENT AND PARLIAMENT

The French have no Golden Bull, nor Magna Charta; peradventure, becauſe no king of theirs had thoſe pretenſions of conqueſt, as the Normans here; nor had that imperial title of the ſword, and the civil laws, as the Caeſars, to tranſport them beyond the bounds of moderation and reaſon: which put them upon other meaſures, and gave them opportunity, ſtep by ſtep, ſlily, inſenſibly, and ſurely, to effect what more openly could never have ſucceeded. As in the fable, the ſtorm and violence of the wind could not force away the traveller's cloke from him; but the ſun coming ſilently upon him, diſſolves him preſently, makes him unbutton, and ſtrips him of all. Noiſe and bluſter make the people the more obſtinate and tenacious. But things remote affect them not. They never ſee conſequences, nor lay aught to heart that is not immediately preſent before their eyes. If any thing, now and then, in the courſe of their king's reign, happened that was ſhocking, all was looked upon as ſome perſonal and accidental ſlip only, without foundation for continuance, or without giving jealouſy of being repeated to poſterity.

About a hundred years after Magna Charta was eſtabliſhed, was that project of the modern parliament in France ſet on foot, to render unneceſſary the ancient aſſembly of the ſtates, and conſequently to alter the government. But the Engliſh arms gave a check to their wanton career, and for a long time diverted them from purſuing that deſign, or bringing it to any head. However, this new aſſembly or vice-parliament was cultivated and improved daily. They aſſumed all the power, they conſulted and determined the weighty affairs: and, in caſe the king offered any violence to the laws, they encountered and oppoſed his exorbitant courſes; they laid before him his coronation-oath, and plied him with remonſtrance upon remonſtrance, till they brought him to reaſon. Neither war nor alliance could be made, nor could his edict or command have effect, till ratified and approved by them. So that to the unwary multitude theſe ſerved the turn as well; theſe were as effectual and ſufficient, and more ready and expeditious than the great old parliament.

But afterwards came new-faſhioned kings to reign, who would not be overcome by reaſons or remonſtrances. And yet then alſo, was a formal compliance of this parliament thought neceſſary; and, as an expedient, when not ſatisfied in conſcience that an edict ought to be ratified, was introduced that clauſe, mandato regis; which imported, that they did not ratify ſuch an edict upon their own judgment, but that they were overruled by the king's particular command. Afterwards again came the expreſſo mandato, and expreſſiſſimo mandato regis, according as they paſſed

it with a greater reluctancy, and greater violence had been offered to their judgment.

But Henry the fourth, who had fought through all oppoſition into his kingdom, and had ſubdued to his will all that had faced him in the field, grew impatient, after ſo great contraſts, to find his reſolutions croſſed, and conteſted by tame gownſmen; therefore, to rid himſelf at once of all thoſe verbal frays and formalities, made a law, that thereafter the king's edicts ſhould be ratified and emologated * upon ſight, without more formal trifling and diſpute. Thus were thoſe remains of ſovereign power, that had ſurvived in this diminutive parliament, baffled and extinguiſhed, without much labour: but as they never poſſeſſed the vigour and ſpirit of the ancient aſſembly, the people were never ſo ſtupid to truſt, or lay much ſtreſs on their valour and performance: and therefore did more early ſhow their reſentment; nor, without a general convulſion and civil war, could bear the apprehenſion of a court-deſign to lay aſide the old parliament.

It was the boaſt of Lewis the eleventh on this occaſion, that he had "mis la royauté hors de page†". He had ſo ordered matters, that the royal ſtate ſhould be no more a pupil; in him it came of age to diſpoſe things, and act of its own head, and ſhould not need to be tutored, or be under a guardian any longer. This was a prince of a particular humour, and of ſingular endowments. It was no wonder if he did not like the check of a parliament; he had before attempted by two or three rebellions to free himſelf from the authority of his king and father. The good old king Charles the ſeventh, weathered the open violence, but fear of poiſon overcame him; inſomuch, that he durſt neither eat nor drink any thing, but after five days faſting died. And now Lewis being king, his firſt work was to clear the court from all who ſerved his father, and pack off all the princes of the blood, and ancient nobility, and to create a new ſet of nobles and courtiers for his purpoſe. The people took the alarm, and clamoured for a parliament to regulate diſorders, and prevent the evils that threatened and hung over them. A parliament! a parliament! was the cry and expectation throughout the kingdom. The biſhop of Paris and clergy, the courts of juſtice, and the city, the three bodies of greateſt conſideration and gravity, preſented to him their ſeveral remonſtrances. He, diſſembling being his talent, took all kindly; and to break their diſcontents, or divert them, took ſix perſons out of each of their companies, to be of his ordinary council, in ſhew only; for in effect he was ſtill the ſame. And amongſt the profligate rabble about the court, there wanted not in the mean time a ſort of wretches who made an hubbub, and, as formerly, declared their deteſtation and abhorrence of their practices who had importuned the king with the remonſtrances, and called it an unparalleled violation of their duty. Nay, Philip de Comines tells us, the courtiers went ſo far, that they called it rebellion to mention a parliament. Nor was it ſtrange ſuch cattle ſhould then

* Emologare, i. e. confirmare. Vide Gloſſarium à Du Freſne.

† Mezeray, en la vie de Louis xi.

then be ſheltered about the court, when a mountebank was ſet up for lord chancellor, taylors and barbers, Jean Doyac, Olivier le Diable dit le Daim, &c. the prime miniſters of ſtate *.

This jarring and miſunderſtanding was followed by a civil war, which was called "the public good." This produced a parliament. And this parliament would no longer truſt Lewis, ſingle with the adminiſtration of affairs; but appointed him thirty ſix commiſſioners, curateurs, to be his aſſiſtants †. However, Lewis's excellency lay in playing an after-game. In the war, he had ſent to his ally Alexander Sforza ‡ for aid; who returned him anſwer, that men he had none to ſpare, but would give advice which ſhould be as effectual; ſo the Italian adviſed him, "always to agree with his enemies upon any conditions, and then find "the opportunity to cut their throats." According to this, Bodin ſpeaks of him, "pacem inire coactus eſt, ſed eos omnes, paucis admodum exceptis, "clam aut apertè necandos curavit; fratrem quoque Carolum veneno" §.

This is the dexterity which Comines ſo much labours to gloſs over, and ſet a countenance upon; theſe the belles actions, and the fineſſe, which the modern French ſo much celebrate at this day: all is copied from this original. Perjuries and poiſons were his ordinary arms, yet none ſo devout, none ſo ſuperſtitious, none made the like largeſſes to the church. But his maſſes and pilgrimages did always portend ſome ſtrange horrid murder about to be executed. Theſe were but perſonal vices; his cajoling the citizens, and affected gallantry to their wives, was politic enough. But what proved moſt effectual to his deſign of changing the government, and excluding parliaments, was his laying aſide the franc-archers; who hitherto had been the train-bands, and ordinary militia of the country.

In the war, called "the public good," he found that thoſe franc-archers, being men of a ſettled habitation and way of living, took part with their landlords and neighbours againſt him; therefore from thence-forward he ſlighted them, and by beat of drum from town to town, gathered and liſted ſuch as voluntarily offered themſelves to his ſervice. Theſe were then called adventurers, becauſe they ſought their adventure by the fortune of war; as, afterward, when Charles the eighth carried them over the Alps, they got the name of ſoldiers, from the *ſold* or pay they received upon that expedition. But as this Lewis could not truſt the militia, ſo within a little time he began to think himſelf not ſafe amongſt his adventurers. Theſe yet were not remote enough from the intereſt of their country, and had ſome ſmall ſenſe of

* Olivier le Diable, barbier du roi Loüis xi, avoit changé ſon ſurnom, fort convenable à ſes moeurs, en celui de Daim. Doyac etoit homme de même trempe. Mezeray, en la vie de Charles viii

† Hotomanni Franco-Gallia, c. 18

‡ Francis, not Alexander, Sforza.—Phil. de Comines, de Serres, and other hiſtorians, tell us, that Sforza ſent Lewis 3500 men under the command of his ſon. Comines, l. 1. c. 8. De Serres en la vie de Loüis xi

§ Bodinus de Rep. l. 5. p. 953. Edit. Urſel. 1601

its oppreſſion. Thereupon for the more immediate guard of his perſon, he takes into penſion four thouſand Switzers; and by that eſtabliſhment, ſeems to have completed his deſign, and altered the old parliamentary into a military government. And now it was not ſo hard a matter to borrow money of the citizens, and otherwiſe make thoſe levies which no king before him ever attempted. Thus it was that he brought the royalty "hors de page"; or, rather (according to the paraphraſe of their hiſtorian Mezeray) "hors du ſens, & de la raiſon *."

Though in Germany the condition of their parliaments is not altogether ſo deplorable and deſperate; yet of later times there have not wanted luſty endeavours by force and by artifice to deſtroy them. Right and wrong are ever the ſame, but times and manners vary faces very much. One while, inſtead of all other penalty for a crime, it was ſufficient that the law cenſured it with an improbè factum. To ſay, he that does ſo, or ſo, is to blame, was more effectual and coercive in thoſe ſaturnian days, than are racks and gibbets with us.

"Radamanthus's way of adminiſtring juſtice in all cauſes between party "and party was by putting them both to their oaths, and determining "their right accordingly. This, ſays Plato, was a proper and ready way in "that age, when every body was poſſeſſed with the fear of God. But, "ſays he, this would not do now in our times, when ſome make it a "queſtion, whether there be a God or no; others make a doubt whether "God regards what we do on earth; moſt and the worſt of men have a "conceit, that though there be a God, yet they can pacify him with "their vile adulations, their mummeries and their maſſes; ſo that they "may ſtill be as wicked as they pleaſe. Therefore, ſays he, when men's "opinions are changed, the laws alſo muſt be changed; for, otherwiſe, if "our judges now were to make Radamanthus their preſident, we ſhould "all be over head and ears in perjuries †."

The like may be obſerved in relation to ſovereigns. In old times, at firſt there was only a ſimple confidence between them and their people; and never were kings ſo reſerved, as then when they had no bounds. Afterwards, the miſbehaviour of ſome princes introduced that check of a coronation-oath. And where that is the only check, it is an argument they had never yet been there tainted with the atheiſm and infidelity which Plato mentions; but had continually lived and ruled with that ſimplicity and religious fear, ſo memorable in thoſe days, when Minos and Radamanthus were king and chief juſtice of Crete. Claude de Seiſſel reckons ſeveral refreins, bridles, that curb the French kings; but now when the old parliament is obſolete, this would be remarked upon, as a graceleſs, unmannerly metaphor in their refined language ‡.

* Mezeray, en la vie de Loüis xi

† Plato de Legibus, l. 12. p. 987. Edit. Ficini, 1602

‡ La Grande Monarchie de France, par M. Claude de Seiſſel.

SECTION V

A TRANSITION TO THE REPUBLIC OF VENICE; OF THE STATES OF THE EMPIRE, THEIR POWER AND PRIVILEGES, AND OF THE IMPERIAL PREROGATIVE

In the ſtate of Venice, at firſt their prince was as abſolute as any barbarian; till having ſtrayed, and given ſome inſtances of human frailty, new curbs and new ties were deviſed for him; but the Italian proved ſtill too witty to be held by any. The Venetians, however, would not be dallied withal; they would not ſuffer the tranſgreſſor to rejoice long in his extravagance, but purſued him with exemplary puniſhment. Sabellicus reckons to the number of twelve that loſt their heads for ſlipping their bridles. At length, when the Venetians found that neither the ſimple truſt was ſacred, nor the coronation-oath inviolable, nor the exemplary puniſhment effectual, to reſtrain their prince within the bounds that were conſiſtent with a free people, they concluded, that the public ſafety could not be ſufficiently provided for, and ſecured againſt their prince, till they ſtript him of all the reality and ſubſtance; leaving him barely the formalities and trappings, and empty ſhadow of ſovereignty.

Now to come back to the Germans. Whatever ſhifts other people have been put to, to maintain their liberty, they, it ſhould ſeem, never truſted the ſovereignty out of their own hands; ſo that, whether it be a mixed, or what other ſort of government you call it, the great affairs were always reſerved to be determined in parliament; there was the ſupreme power, there was the majeſty. Yet no people have been forwarder in adorning their prince with all the titles and expreſſions of greatneſs, and an arbitrary, uncontrolable power than they. All the acts and laws run in his name, and are called Caeſar's laws, and Caeſar's conſtitutions. Where the emperor and the empire are named, he conſtantly has the precedence. In the public ordinances and receſſes, every thing from him are ſtiled precepts and commands; from the ſtates merely obedience and prayers, though he cannot wag a finger without their conſent. They every where ſpeak of, and own in him a fulneſs of power "vollkommenheit;" and this they give alſo to the king of the Romans at the ſame time, to ſhew the emptineſs and vanity of it: as both are called heads of the empire, though the latter has no power at all, during the emperor's life. They and all the world ſalute him by the title of imperial majeſty. And the German ſtyle will not allow majeſty to any other kings; "die königliche würde," not "die königliche macht," the king's worſhip, not majeſty. Yet after all, Æneas Sylvius ſays, "Quamvis imperatorem, "et regem, et dominum veſtrum eſſe fatemini, precariò tamen ille imperare "videtur, nulla ejus poteſtentia eſt*." The ſhadow and flouriſh only were in

* Æneae Sylvii Germania, c. 43.

in the emperor; but the jura majeſtatis, the vis imperii, the eſſentials of majeſty were always reſerved and exerciſed by the common aſſembly, as by the particulars more plainly appear.

1. One of the rights of ſovereignty is to be above the law, and to give laws to the people. Neither of theſe royalties belong to the emperor; he may be called to account for violating the laws. In the Golden Bull, the forms and proceedings againſt him are ſtated. It is there ſaid to be the cuſtom, and accordingly ſettled and agreed for law, that the electors may impeach the emperor, in the aſſembly of the ſtates; and the count Palatine of the Rhine, as chief elector, is to be the preſident or judge. For the legiſlation, or making laws, the emperor propoſes, the ſtates are free which propoſitions they will proceed upon. When an act is to be paſſed, the electors have ſix votes, the princes ſix, the cities two, the emperor has but one, the laſt vote. Without a majority he can do nothing. They can decree without him if he is abſent. The ordinances are to be confirmed by his ſeal and ſubſcription; but if the ſtates perſiſt, he muſt of neceſſity comply. Even Charles the fifth in vain conteſted that point, as may be ſeen in Sleidan *. Theſe ſanctions are regularly ſubſcribed by Caeſar, and by ſome of the ſtates for the empire; and are enrolled at Mentz, in the chancery of the empire. The ſeveral members of the ſtates are ſworn to be true to the emperor and to the empire; and are ſaid to be ſubjects of the emperor, and of the ſacred empire.

2. In matters of religion, in all times, the head of the ſtate had the ſupreme direction, as it was ſaid of Tiberius, "Deûm munere, ſummum "pontificum, ſummum hominum eſſe †." And the firſt chriſtian princes, before the papal tyranny uſurpt upon them, were always the chief pontifs, and received the pontifical habit from that college. But upon the reformation in Germany, Anno 1555, both the emperor and Pope were excluded, and their pontifical ſupremacy abrogated. In the point of religion, the emperor was not conſidered as the chief and head of the empire, but as a party: for by joining himſelf to the Roman-catholics, he made their cauſe and concern his own. It was therefore agreed and concluded, that the ſtates only ſhould determine in matters of religion; and that with a tender hand, in an amicable way only.

3. War and peace are tranſacted in the name of the emperor; but in effect, all is reſerved to the ſtates. He muſt at the leaſt have the conſent of the electors. Yet any prince of the empire may levy ſoldiers, may make leagues and aſſociations without any body's leave.

4. For juriſdiction and the laſt appeal, the civilians ſay the emperor is "fons omnis juriſdictionis;" but here it is far otherwiſe. The princes, in cauſes touching their life, their honour, or their fee, always claimed their privilege "das fürſten-recht" they call it, to be tried by their peers the princes of the empire. The common pleas were tried by the emperor, and attended his motion, till by the increaſe of ſuits, that judicature was

* Comment. de Statu Relig. et Reip. Carolo V. Caeſare, l. 4

† Tacit. Annal. l. 3. § 58

was no longer ſufficient, the judges grew corrupt, and many other inconveniences appearing, the ſtates in their aſſembly at Franckfort, Anno 1489, ordered a place certain for the deciſion of thoſe ordinary cauſes; whereupon the imperial chamber at Spires was erected. All the proceſs and decrees of the court ran in the emperor's name, and are under his ſeal; and it is called Caeſar's court: but it is alſo called the court of the empire. The emperor only named the preſident; by the ſtates were the reſt of the judges appointed; and the other officers of the court by the elector of Mentz, arch-chancellor of the empire. The ſtates likewiſe execute the ſentence. They viſit and reform the court by their commiſſioners; and to theſe viſitors are the appeals, not to the emperor. Yet ſome voluntary references that were made to the emperor and his privy-council, and to their arbitration, gave them opportunity of late to uſurp a juriſdiction.

5. Taxes are all levied in the emperor's name; but in truth, nothing of that nature can be done without the aſſembly of the ſtates. Nor is the emperor truſted with the money in his exchequer; the ſtates keep it till it be employed; they have their ſeveral treaſuries. Sometimes the ſeveral circles keep their reſpective money; ſometimes a public treaſury is agreed upon, and one or more "pfenningmeiſters," penny-maſters appointed. Anno 1495, they ordered ſeven treaſurers, one to be named by the emperor, and ſix by the ſtates. Theſe ſwear to the ſtates. And if any be, by ſpecial oath or obligation, bound to the emperor or other particular ſtate, he is incapable of that truſt. Theſe are accountable to the ſtates only. If the occaſion for which the tax was raiſed be taken away, the money cannot be diverted to other uſes, but by the conſent of the ſtates.

6. The chief magiſtrates are, none of them, made by the emperor. The count elector Palatine is vicar or protector of the empire, and has the charge of it in the emperor's abſence. The three eccleſiaſtical electors, who are choſen by their chapters, are of courſe the arch-chancellors of the empire. The ſtates appoint the "reichs-ſchatzmeiſter, or "reichs-pfenningmeiſter," the treaſurer of the empire. Sometimes they leave the general to be named by the emperor, and the ten circles appoint their ſeveral directors or council for him. For the other particulars, as the inſpection and care of coining money, the hearing and ſending ambaſſadors, etc. the emperor has no great matter of advantage above the other ſtates. On a common account, where the concern is general, the ſtates muſt be conſulted; and nothing can be done without their conſent and approbation. The electors are in poſſeſſion, and exerciſe a particular ſovereignty in ſome points of greateſt moment. They are the truſtees and repreſentatives of the whole empire, in their election of the emperor. And hereupon they undertake likewiſe to looſen his power, or tie it up ſhort, and make what capitulations they pleaſe with him: and thereby would aſſume to themſelves more than the other ſtates will ever be content to allow them. But the emperor ſingly, beſides the name, and pomps,

and

and empty titles, has very little of the ſubſtantial ſovereignty entruſted with him. The inveſtiture of the great fiefs belongs to him. This is a prerogative, goodly in ſhew, and were of moment, could he lay any conditions or charge on the perſon inveſted; but nothing is left to his will; he cannot deny, nor delay the lawful heir. Nor does the fee for want of heirs eſcheat to the emperor, but to the public patrimony. He grants privileges, where a third perſon or the public is not injured. He founds univerſities, grants fairs, makes denizens, etc. He creates kings, princes, dukes, marquiſſes, counts, poet-laureats, doctors, etc. He gives only the bare, titulary honour of prince, but not the qualifications; he cannot make him capable to ſit and vote amongſt the other princes of the empire. So that here the ſtates are not ſubject to that impoſition which the Roman ſenate once ſuffered under Tarquinius Priſcus, who created an hundred new ſenators, to the end he might be ſure of a court-party, by his creatures, and have a majority of votes in the houſe. In ſhort, the Germans ſeem to have obſerved the rule in politics, that he who is the moſt high in name and dignity, ſhould in real power be the leaſt conſiderable. Yet in the laſt age, the ſtates gave way to ſeveral innovations, which proved of miſchievous conſequence afterwards.

SECTION VI

OF THE REGIMENT OR DIET OF THE EMPIRE, WITH A SHORT RETROSPECT TO THE PARLIAMENT OF FRANCE, AND PANEGYRIC UPON THAT OF ENGLAND

It had antiently been the cuſtom for the aſſembly of the ſtates, to ſend for the emperor to come to them upon occaſion; ſo Hincmar tells us of Charles the Great, "Rogatu ipſorum in concilium veniebat, quotieſcunque "voluntas eſſet ut ad eos veniret; ſimiliter quoque quanto ſpatio voluiſſent, "cum iis conſiſteret, etc."* "Upon their meſſage to him, he came to "the aſſembly, as often as they had a mind he ſhould come to them; and "in like manner he ſtayed ſo long with them as they deſired:" and this cuſtom continued, as may be ſeen in Lehmannus, l. 7. c. 80. and c. 115. till under Maximilian, and then the ſtates began to go to the emperor.

This Maximilian likewiſe, upon pretence of ſudden occaſions that admitted not delays, would, now and then, be acting *ſingly*, and uſurping in ſeveral particulars the power that of right could only be exerciſed by the ſtates. Therefore the ſtates, an. 1500, to take off theſe pretences, and prevent all attempts of this kind, and partly, peradventure, for their own eaſe, ſubſtituted in their abſence a committee, which they called the regiment, and the members regents. This regiment was an epitome of the whole empire, and was endued with all the powers and ſovereignty accordingly.

* Hincmarus ad Proceres Regni, § 35

accordingly. It conſiſted of twenty perſons, who were choſen out of the ſeveral orders of the ſtates, and took an oath "to be true to the emperor, "and to the ſacred empire." The emperor, or his proxy, was their preſident; but, leſt this might give too great advantage to the emperor, an elector was added, as a joint-preſident with the emperor, or his proxy. No perſon of dependance on, or particular obligation to the emperor, was capable of being a member. The emperor had no more vote than any one of the twenty regents; nor could determine aught, unleſs the majority were for him. Theſe were not ſimply to conſult, but had the execution alſo.

This conſtitution held for ſome years; and then the annual aſſembly returned, and reſumed their power, and acted again; but in caſe of ſudden neceſſity, left another expedient for the emperor. They conſtituted for him a counſel conſiſting of eight perſons, four choſen by the electors, and four by the other ſtates. Theſe were ſworn to be true to the emperor and to the empire, "ſchweren der keyſerlichen majeſtät und dem heiligen "reich getreu, &c." But Charles the fifth coming to reign, he went upon the new model immediately; he reſtored the regiment, but made the conditions altogether different. Now it conſiſted not of twenty, but twenty two perſons. He as emperor would have two votes added, thereby in effect to be maſter of five votes; two as emperor, one as preſident; one for Auſtria, and one for Burgundy. The former regiment might, according to the old cuſtom, ſend for the emperor to come to them. Now it was ordered that Caeſar might call them to what place he had a mind. Formerly, if the emperor came not, they might proceed without him; now, Charles the fifth forbad them to make leagues and alliances, or do aught in his abſence. The oath was altered, and the members were only ſworn to the emperor, and ſaid to be the counſel of the emperor; whereas the former was called the counſel of the empire. In the former conſtitution, the elector in the name of the empire ſubſcribed their ordinances; here, with the elector's ſubſcription, is joined that of the preſident, in the name of the emperor. In ſhort, the former was conſtituted by the ſtates, and entruſted with their power, to be a check upon the emperor; this was formed by Caeſar, to quiet the people, and entertain them with a ſhew; whilſt he the more inſenſibly made his advances to invade their ancient rights, and uſurp all the power into his own hands.

The next project, in caſe of emergencies, was the aſſembly of the deputies. This conſiſted of the ſix electors, ſix other princes, and two cities; to which were afterwards added four princes more. This continued till the year 1606, with ſome effect. Afterwards it proved of little conſequence, court-artifice prevailing; and the Ferdinands found a way to manage the deputies, and render them as unprofitable to the public, as Charles the fifth had made the regiment. The ſecond Ferdinand called what deputies he knew would vote for him; the reſt he excluded, and ſupplied their place with others, who he underſtood were entirely at his

devotion, as he told my lord Digby, ambaſſador with him, an. 1621 *. Amongſt theſe projects, may be mentioned the counſel of the emperor's court, and the privy council. Theſe alſo, that they might ſhew as if the empire had their intereſt in them, were at the firſt ſworn to the elector of Mentz, as arch-chancellor of the empire: which oath came, after ſome time, to be omitted.

Thus we have ſeen that the cuſtom of the empire was to have a yearly aſſembly; theſe, at the end of their ſeſſion, always appointed the time and place for their next meeting. If there was neceſſity for them ſooner, then was the emperor to call an aſſembly extraordinary; which happening frequently, the ſtates for their eaſe appointed the regiment, and other expedients. This gave a precedent for the emperors to deviſe ſomething of the like nature, which they might more eaſily pervert to their own arbitrary intereſt and advantage. If it have but the name or reſemblance, the people look no farther; they ſee not into the trick and ſecrets of it; they are led by the appearance ſo long, till they are paſt recovery, and no way is left them for a retreat. And indeed the emperors of the laſt age ceaſed to deal bonâ fide; the old German honeſty wore out of faſhion; and they no longer treated on the ſquare with their people. Artifice and juggle came in place; and in the days of Charles the fifth, began to get a ſpecious appellation, and be named, forſooth, "reaſon of "ſtate." But more eſpecially, ſince the Jeſuits there, have refined upon the court-ſophiſtry, and minced away all the old remains of morality and conſcience; for the Jeſuits could the worſt of all others endure theſe ſame mixed governments. They would have the pyramid inverted, and the whole ſtreſs of things reſt upon one ſingle leg, that their art might play the more freely, and they the more cleverly trip it down. This broad-bottomed monarchy and government, founded on the people, puts them to other meaſures. A doſe of poiſon, or conſecrated dagger, will not do the work: they muſt here go about and about, make ſlow approaches, ripen a plot of many years, and draw a long concatenation of intrigue, ere they can think to compaſs their deſign. When the commonwealth has but one neck, the Jeſuit will have it under his girdle; if not, one blow does the feat, and his dexterity is admirable. Therefore in Germany the Jeſuits have left no ſtone unturned, for their part, to bring all the ſovereign power from the ſtates to the emperor. And to that end, of late times, the emperor (whether by their influence upon his councils or no, is not our enquiry) has employed all the undue practices, and ſet all engines at work, to render the public aſſembly uſeleſs, burthenſome, and odious to the people. On this foot, care has been taken, that ſome vexatious tax ſhould be the only reſult and concluſion of every ſeſſion. "Aid "againſt the Turk" was a conſtant, perpetual pretence; money the head of all his propoſals; money the effect and ſubſtance of all his ſpeeches. This affair once adjuſted, other debates were out of doors; grievances not then longer to be touched upon, but all adjourned to another ſeſſion; beſides

* Lundorp. Tom. 2. an. 1621

beſides the miſchievous devices to embroil the ſtates amongſt themſelves, and turn all their heat upon fruitleſs diſputes and altercations.

In the ſecond place, the electoral college have not been too fair in their reſpects to the diet. Theſe could be content, that betwixt Caeſar and themſelves, all the matters of ſtate be tranſacted; and have ſometimes, accordingly, ſtretched a text of the Golden Bull to ſerve a turn, and collogued with him, that he again might be complacent to them; till, amongſt them, the public patrimony and common right and prerogatives of the empire became engroſſed in a few hands, and made a ſpoil to their unreaſonable ambition. Theſe electors muſt, every one, under his hand and ſeal, ſignify their conſent to the emperor, before he can ſummon an aſſembly of the ſtates. They got to themſelves the making of the emperor; and now, in effect, the ſtates cannot meet without their order. They were wont to be reckoned ſix electors; to ſome purpoſes ſeven; now they make eight; but before they fill up the number of the Roman Decemviri, they will do well to remember their fate. Theſe ten, as Livy tells us, having got all the ſupreme authority, for a time, into their hands, that they might reign abſolute, "took an oath toge-"ther never to call the common council" *; yet their tyranny held not long; this cheat would not down with the old Romans; but with a general indignation they broke over the forms and captivity of the letter. For, according to that old law in Homer,

Εἷς οἰωνὸς ἄριστος, ἀμύνεσθαι περὶ πάτρης †,

to free their country from ſlavery, they executed an unwarranted piece of juſtice upon theſe ten uſurpers, or ten Tarquins, as ſomebody then called them.

Laſtly, the ſtates have not a little been wanting to themſelves, in the affair of this their ſo ancient and fundamental prerogative: one principal cauſe of which, amongſt many others, has been their differences about religion. For the proteſtants being ſure to be outvoted in the diet, think they can barter with Caeſar for better conditions, and are therefore well enough content that the yearly aſſembly be neglected. In a word, the German diet is ſtill on foot, rather encumbered, and clogged, and puzzled, than deſtroyed.

The parliament of France ſeems quite antiquated and ſubdued; the ghoſt and ſhadow of the defunct has appeared three or four times ſince Lewis XI; but to revive that aſſembly in its full and perfect vigour, requires a miracle like the reſurrection. So that in effect, we may date the demiſe of the parliamentary ſovereignty in France, from Lewis XI; and the decay of that in Germany from Charles V.

It is in England only, that the ancient, generous, manly government of Europe ſurvives, and continues in its original luſtre and perfection. Were there not ſomething in that ſaying of the emperor Maximilian, "that

* Opinio ſine auctore exierat, non in praeſentis modò temporis eos injuriam conſpiraſſe, ſed foedus clandeſtinum inter ipſos jurejurando ictum, ne comitia haberent, &c. Liv. l. 3. § 36

† Unum augurium eſt praeſtantiſſimum, pugnare pro patriâ. Il. 12. v. 243

"that the French king is a king of aſſes;" yet, however, that ſame legereté, on which the French ſo value themſelves, is but, in plain Engliſh, a lightneſs of humour, by which they are eaſily piped into a new mode of government. But our Engliſh anceſtors have always been of a more ſteady principle, more wiſe, and more weighed, than to dance after their politics. The reformation of religion leaves no room at our court for jeſuitical infection, ſo fatal to the Germans. Nor, on the other hand, have we yet had any Swiſs guards, or Lewiſes for our kings. Ours have ſtill been true Engliſh originals, no copies of the French. Magna Charta, inſtead of being ſuperannuated, renews and recovers its priſtine ſtrength, and athletic vigour, by the Petition of Right, with our many other explanatory or declaratory ſtatutes. And the annual parliament is as well known to our laws, as ever it had been famous amongſt the cuſtoms of France and Germany.

I have not formally anſwered many objections that might be ſtarted; nor much regarded the ſingle inſtances of ſome hiſtorians, and perhaps may be judged lame in ſeveral particulars that I have ſlighted. Take all together, you may as eaſily find an anſwer, as raiſe a ſcruple. But the ſhort of what I would have ſaid, is, you are not to expect truth from an hiſtoriographer royal; it may drop from their pen by chance; but the general herd underſtand not their buſineſs; they fill us with ſtory, accidental, incoherent, without end or ſide, and never know the government or policy where they write. Even the records themſelves are not always accurately worded. The ſtile of the court, and a form of words, impoſes upon many. Names are taken for things, ceremonies for eſſentials. The civilians are vaſſals to a foreign juriſdiction; Caeſar, the ſword, the military, imperial (or rather imperatorial) diſcipline, is to them for ſceptre and civil policy: the Germans, anno 1441, were for excluding them from all offices, and places of truſt*. Our common lawyers are for comparing and meaſuring by their rule, what is antecedent and above their rules and compariſons. Chriſt's kingdom is not of this world; nor ought the divines πραγματευειν, to meddle in this political province.

SECTION VII

OF THE NECESSITY OF PARLIAMENTS; WITH A TRANSITION TO THE CONSTITUTION OF ENGLAND.

In the general notion, monarchy or kingly government is the moſt eaſy, and moſt excellent; but corruption coming into the world, neither the ſons of Jupiter, nor the ſons of Hercules, found perfection entailed upon them; nor were exempt from their ſhare of human frailty. "Many, "ſays Taſſo, are ſervants by fortune, who are naturally princes; ſome "again, though deſcended from an hundred kings, are yet born to be "ſlaves;

* Limnaei Jus publicum Imp. Romano-Germanici, L. 1.

" ſlaves; and (maugre all their high race of royal progenitors) will be " commanded, and governed, and managed by a minion, or a miſtreſs. " Theſe are, really and indeed ſlaves; but are not judged ſuch, becauſe " the people, who only look on the outſide, judge of men's conditions, " as in plays, where he is called a king, who, clad in purple, and " gliſtering with gold and gems, does perſonate Agamemnon: if he " does not repreſent him well, he has the name of king nevertheleſs; " only it is ſaid, the king was out in his part, or the king acted his " part ſcurvily *." And Flavius Vopiſcus tells us, " Aurelius Caeſar " dicebat, Colligunt ſe quatuor vel quinque, atque unum concilium ad " decipiendum imperatorem capiunt: dicunt quid probandum ſit. Im- " perator, qui domi clauſus eſt, vera non novit; cogitur hoc tantum " ſcire, quod illi loquuntur; facit judices quos fieri non oportet; amovet " à republicâ, quos debebat obtinere. Quid multa? ut Diocletianus " ipſe dicebat, bonus, cautus, optimus venditur imperator †." " Aurelius " Caeſar was wont to ſay, four or five get together about the emperor, " all their conſult is, how to cheat him; what they ſay is to be law; the " emperor, who is ſhut up from other counſel, never knows the true " ſtate of things, but is forced to underſtand juſt ſo much only as they " tell him; he makes judges, who the leaſt of all ſhould be; turns out " of commiſſion thoſe who ought to be the Quorum; in a word, accord- " ing to Diocleſian's ſaying, the emperor, ſo good, ſo wary, and ſo too " good, is bought and ſold before his face."

If then it be true, that he who is of royal extraction, clad in purple, and called a king, is not always naturally ſuch; it was wiſdom, certainly moſt ſeaſonable, to find the means that might correct, and, as it were, enſure nature againſt the impotence and tyranny of the minion or miſtreſs which Taſſo mentions. And if the obſervation of Aurelius Caeſar be juſt, that cabals are ſo pernicious; and that four or five perſons, who get the prince into their hands and poſſeſſion, ſhall abuſe, and cheat, and betray him to his face, in ſpite of all his goodneſs, his caution, and royal virtues; if, I ſay, theſe things be true, the neceſſity of parliaments cannot be diſputed. Homer, as before obſerved, reckoned it barbarity in the degree remoteſt from all things of God and goodneſs, and a Cyclopean preſumption, to rule without parliaments.

Old

* Queſta differenza di ſervo e di ſignore è fondata ſuvra la natura: perciocchè alcuni ci naſcono naturalmente a comandare, altri ad ubbidire; e colui, che per ubbidire è nato, ſebben foſſe di ſchiatta di re, veramente è ſervo, nondimeno tale non è giudicato, perciocchè il popolo, che guarda ſolamente alle coſe eſteriori, giudica delle condizioni degli uomini, non altramente che egli faccia nelle tragedie, nelle quali re è chiamato, chi è veſtito di porpora, e reſplendente di oro, e di gemme, ſoſtiene la perſona di Agamennone, o di Atreo, o di Eteocle: e ſe avviene, che egli ben non rappreſenti la perſona, della quale ſi è veſtito; non perciò altro che re è chiamato, ma ſi dirà, che il re non ha fatto la parte ſua, ſimilmente chi non ben ſoſtiene la perſona di principe, o di gentiluomo, etc. Il Padre di famiglia, Dialogo. Opere di Taſſo, Tom. iii. p. 194

† " Aurelius Caeſar dicebat" is a miſtake. " Colligunt ſe, etc." are the words of Vopiſcus. Vide Flav. Vopiſcum in vitâ Divi Aureliani, § 43

Old Heſiod, in his homely way, gives an enigmatical reproof to thoſe kings that would be graſping all, and be ſo abſolute,

Νηπιοι, εδ' ισασιν ὁσῳ πλεον ἡμισυ παντος,
Ουδ' ὁσον εν μαλαχῃ τε και ασφοδελῳ μεγ' ονειαρ *.

as if he had ſaid, "Theſe fools know not, how much more the half is "than the whole; and that a ſhoulder of mutton, with the love of the "people, is more worth than the ragoûts, and the hautgoûts, and all "the French kickſhaws whatſoever." Plato tells us, that even in Aſia, they who performed any great atchievements, or enlarged the empire, were thoſe (as the grand Cyrus for example) who ſlackened the prerogative, and admitted the people to a ſhare in the government. But ſuch as Cambyſes, who, againſt all ſenſe and reaſon, ſtretched and ſtrutted upon the το δεσποτικον, the lordly domination, brought all again into confuſion and ruin †.

Amongſt the Latins, even the founder of the Roman name, Romulus, becauſe he took upon himſelf an arbitrary power, to rule without the ſenate, they (it is thought) tore him to pieces; inſomuch, that they left nothing of his body for a ſpectacle to the rabble; as afterwards their ſucceſſors unluckily did, who killed Caeſar. The imperial power that began with the Caeſars, was only "magnum latrocinium," one huge, horrid oppreſſion. Military government, martial law, barbarous nations, Goths and Vandals, overran, and made havock of the old civil Roman empire.

In Britain, Gaul, and Germany, all this while, liberty, and a participation in the government, was the common right and inheritance UNALIENABLE; the common-council was the baſis and hinge, however the adminiſtration rolled. Afterwards, when Germany gave us people, it gave us a German and a free people.

About anno dom. 800, Charlemagne, or Charles the Great, united France and Germany under one head, and one empire. All hiſtories are full of his reign and actions: he ruled "more ſolenni, ſecundum morem," in the old cuſtomary, parliamentary way, every where. The nations round about ſubmitted and took laws from him; and he ſubmitted all again to the "ordinatum," the ordinance of parliament. An annual parliament was then reckoned the cuſtom, and inviolable right of the people. And thus the affairs of ſtate proceeded; and this ſcheme of government continued in Germany, till the late unhappy diviſions about religion, weakning and embroiling the ſtates, gave way to the Auſtrian ambition, new projects, and jeſuitical artifice; ſo that the aſſembly of the ſtates at this day keeps on foot indeed, but ſick, heavy, and unwieldy.

The French court had much ſooner learned the terms "de proprio "motu, et poteſtate abſolutâ," by their neighbourhood and correſpondence

* Stulti, neque ſciunt quanto plus dimidium ſit toto,
Neque quàm magnum in malvâ et aſphodelo bonum.
Heſ. Εργ. και Ἡμερ. l. 1. v. 40

† Plato de Legibus, l. 3. p. 815. Edit. Ficini, 1602

dence with the pope at Avignon. But ſo long as the Engliſh arms kept them in mind of their mortality, it was no time for them to think of ruling without a parliament. But when Charles the ſeventh had ſent home the Engliſh, Lewis the eleventh, with Olivier le diable, his barbers, and his cut-throat devils, thought no attempt too wicked for them. He, forſooth, was hors de page; he wanted not to be led, he was paſt an infant; and a loud outcry he made againſt the unmannerly, clump-fiſted, bumpkin parliament. But when the "bien public," or war for the public good, hindred him from bringing about his deſign openly and directly, he compaſſed it, in effect, by ſlighting the militia, and laying his project of a ſtanding army.

In England we have alſo heard of minions, and miſtreſſes, and cabals; and have had unhappy princes. But the laws and old cuſtoms of the land, the generoſity of the people, and the genius of the nation, have ſtill prevailed, and been too ſtrong for all their practices and machinations.

When the Normans came to the crown, after ſome years of eaſe and proſperity, they began to forget on what conditions they had entered. Conqueſt was a ſhort, a compendious title, and without intricacy. And now likewiſe the church-men were every where agog for changing the government both of church and ſtate, into abſolute monarchy. But the beſt of it was, the pretences were viſible and notorious. Beſides that the temporal and ſpiritual, the prince and the prelatical lord could not agree who ſhould be ſupreme. Which differences gave breath to the people, and put into their hands an opportunity to aſſert their antient, juſt rights, and bottom all upon the parliament again.

And now, ſince the Great Charter, and Petition of Right, and the many other declarations, what can threaten us? neither the gun-powder treaſon, nor the late more ſacred invention of a penſioned parliament, could take effect. NO ROOM IS LEFT AMONGST US FOR A STANDING ARMY, which enſlaved the French. And our franc-archers, our militia, continues after the old model. Nor, with us, as in Germany, is the Papiſt like to bear up againſt, and balance our Proteſtant votes in parliament; thereby to render the conſtitution uſeleſs and impracticable. And it may be hoped, we ſhall never ſo far give way, and be gulled by jeſuitical artifice, as to find another diviſion in religion amongſt us; that may favour their deſigns, and, under other names, do their work as completely.

You need not be cautioned to diſtinguiſh Plato the divine, from Plato the philoſopher. Poets and divines, you know, have a particular way of expreſſion, and give their thoughts a turn different from that of other people. They attribute every thing to God; though the whole operation and train of cauſes and proceedings be ever ſo natural and plain before their face: the images they make are often taken in the groſſeſt ſenſe, and worſhipped by the vulgar; and many times the ſtateſman is willing to contribute to their idolatry. Hence it comes, that for the Perſians, Zoroaſter was ſaid to receive his laws from Horomazes; Triſmegiſtus for the Aegyptians, from Mercury; Minos for the Cretans, from Jupiter; Charondas

Charondas for the Carthaginians, from Saturn; Lycurgus for the Lacedemonians, from Apollo; Draco and Solon for the Athenians, from Minerva; Numa Pompilius for the Romans, from Egeria; Zamolxis for the Scythians, from Veſta; and all theſe as truly, as Mahomet had his Alcoran from the angel Gabriel. This ſort of doctrine went current enough while monkery and ignorance ſat in the chair; but now, in an age of hiſtory and human reaſon, the blind traditions go hardly down with us: ſo that Jure Divino at this day makes but a very litigious title.

Nor is it conſiſtent with the brevity of a letter, to obſerve minutely how long the remains of the Roman domination continued amongſt us; as, namely, that the Roman was the only authentic language for judicial matters in Germany, till the reign of Rodolph the firſt, about the year 1287, in England till Edward the third, in France till Francis the firſt. But in church-affairs, that old mark of ſlavery is not yet worn off: the ſpiritual emperor will remit nothing, he ſtill holds his vaſſals to the Roman tongue even in divine ſervice; only in England, and where the reformation has prevailed, this, with the other appurtenances of Roman bondage, are no longer neceſſary.

Nor is it proper in this general draught to reflect on all the ſeveral ſteps, and little diſpoſitions to change, in each nation. As, how ſometimes a practice has prevailed againſt the form and letter; ſometimes the form of words has been neceſſary, but the practice obſolete. The uſe in commiſſions of the phraſe, "pour enjouer tant qu'il nous plaira," was not known in France till Lewis the eleventh tried its virtue; which occaſioned their parliament, anno 1467, to ordain that notwithſtanding the clauſe, "tant qu'il nous plaira," offices ſhould not be void, ſave only by death, reſignation, or forfeiture, as Paſquier in his Recherches informs us.

SECTION VIII

OF THE THREE ESTATES; AND FINALLY OF KING-CRAFT, OR TRICKS OF STATE

But, peradventure, ſince it has been ſo much controverted of late among us who are the three ſtates, and the word occurring ſo frequently in the German tongue, you may expect ſome account who they be, that have the name of ſtates in Germany.

They expreſs the word ſtates in their own language, and call them ſtände, and reichs-ſtände, becauſe, ſays Goldaſtus, the empire ſtands and reſts upon them, as upon its baſis and pillars. "Status imperii dicantur, "quod in illis, ceu membris, id eſt, baſibus et columnis, ipſum imperium "ſtet et ſubſiſtat. Thoſe are ſaid to be ſtände, who have the right to ſit and vote in the common aſſembly of the empire. "Hi quidem ſtatus, "reichs-ſtände appellantur, ideo quòd ſtatum et locum votandi et ſedendi "in

" in comitiis imperii habent; hâc quippe unicâ et propriâ quaſi notâ, " ſtatus ab aliis imperii ſubjectis ſecernuntur *." So that all the queſtion is, how many ſeveral ranks, or diſtinct orders there may be of theſe ſtände?

From Polybius, we have had a particular account of mixed governments, where he calls thoſe that repreſent the monarchical, the ariſtocratical, and the popular ſtate, Τρια μερη τα κρατεντα της πολιτειας †, " the " three governing parts of the commonwealth." So the king, the ſenate, and the ephori at Sparta; the conſuls, the ſenate, and the tribunes at Rome, were there the three ſtates, and had each their particular ſhares in the government.

The like ſeems to have obtained in France, under the names of the king, the peers, and the third ſtate: nor did the power of the clergy, how great ſoever otherwiſe, make any new diſtinct order, but they were mixed and included with the other ſtates, as their learned archbiſhop Claude Seiſſel in his treatiſe of the French monarchy ſhews us ‡.

In Germany, how the government has been ſhared, and who have had a right of voting in old times, we may learn from what has before been cited out of Tacitus; the " rex," the " principes," and the " omnes," denote the three ſtates, who had their ſeveral ſhares, and right of voting in the government.

The ſame diſtinction continued ſtill under the weſtern empire. Hincmar, at the yearly aſſembly, or " generale placitum" under Charlemagne, does comprehend all under the terms of ſeniores and minores ‖; ſo that the emperor, the ſeniors, and the commons, ſeem to have then been the three ſtates. Senior, which the Germans expreſſed in their ealdermen §, we may ſuppoſe, was a word which grew current in the provincial, or vulgar Roman about that time; and afterwards was diverſified into ſieur, and ſire, and ſir, and monſeigneur, and monſieur, and was ordinarily applied to men in great office. " Cùm ſeniori urbis " nunciata fuiſſent, etc. ¶ Seniores loci illius, etc. ** Nihil per me feci, " niſi quae mihi à dominis noſtris et ſenioribus imperata ſunt ††. " Tempore ſenioris noſtri, etc. ‡‡ Ex parte ſenioris mei Caroli, etc. ‖‖" Theſe, and the like paſſages in Gregory Turonenſis may ſhew the extent of the word, and that the ſeniores in Hincmar, were the ſame with the principes in Tacitus: nor did the ſignories become hereditary till Otho the firſt's reign.

But what moſt affected the government, and proved of greateſt conſequence in this affair, were the innovations that happened in Frederic the third's time; for, whereas, formerly, a proclamation was wont to be iſſued out for ſummoning the aſſembly, whereupon, " delecti ex ſingulis " civitatibus," ſays Aimoinus, from every town and city were choſen

* Arumaeus Comm. de Comitiis Romano-Germanici imperii, c. 4.
† Polyb. Hiſt. l. 6. § 9
‡ La Grand Monarchie de France, par M. Claude de Seiſſel.
‖ Hincmari Epiſt. ad Proceres regni, § 29. Vide ſuprà, p. 11. § Ealdermen, Sax.
¶ Greg. Turon. l. 10. § 2 ** Ibid. l. 8. § 31 †† Ibid. l. 6. § 24
‡‡ Conſecratio Caroli Calvi, apud Hiſt. Franc. Script. à Du Cheſne Edit. vol. ii. p. 449
‖‖ Pactio Aquiſgranenſis, Ibid. p. 453.

the burgeſſes and citizens to go their repreſentatives to the aſſembly, now, ſo many grieved at the charge, and neglected the proclamations, that oftentimes the aſſembly could not proceed for want of a competent number of members; wherefore Frederic let the proclamations alone, and, inſtead thereof, ſent particular letters to the ſeveral towns; and, henceforward, none thought themſelves obliged to attend, who had not letters directed to them. Many of the poorer towns were glad to be excuſed, and private gentlemen left off going; ſo that, within a little time, the government was brought into a few hands, and every day rendered leſs and leſs popular. Thoſe cities that preſerved their ſhare in the government, and right of voting, by continuing to ſend their repreſentatives to the aſſembly, are now therefore called imperial cities.

Although the electoral princes had a name much ſooner, yet were they ſtill one and the ſame ſtate with the other princes, till under this Frederic, in the diet at Francfort, anno 1489, they parted, and became a particular aſſembly, and voted ſeverally, and from that time got the name of a diſtinct ſtate, and formed a new ſort of an ariſtocracy by themſelves. Yet all this while the clergy did never ſet up for a ſeparate order in the commonwealth, but always made a mixed ſtate with the laity; mixed they are in the electoral ſtate, and mixed in that of the princes, where the "geiſtlicher" and "weltlicher," ghoſtly and wordly, as they call them, together with the counts, barons, and other gentlemen, make but one ſtate. They have indeed a particular bench, "die geiſtliche bank," to ſit upon by themſelves; ſave that the arch-duke of Auſtria, and duke of Burgundy only ſit upon it above them.

Now, whether we fix our notion of the three ſtates upon the doctrine of the antients, as delivered by Polybius; or call them the ſtates, who have a right of voting, the emperor is clearly one of the ſtates: nor is it material, that the ordinary ſtile and form of words ſeem to imply the contrary; for if the ſaying, emperor and the ſtates, argues the emperor himſelf to be none of the ſtates, by the ſame reaſon the form ſo frequent in their receſſes or public ordinances, "churfürſten, fürſten und ſtände," that is, electoral princes, princes and ſtates, will exclude the electors and the other princes alſo, from being either of them ſtates. The form emperor and ſtates, does no more prove him to be none of the ſtates, than with us the ſaying, king and parliament, does imply, that the king is no part of the parliament.

I ſhall not trouble you with the diſputes, what were the boundaries of Auſtraſia and Neuſtria, or whether by the devolution of this weſtern empire, Germany was added to France, or France to Germany; or, whether more properly, Charlemagne be to be reckoned amongſt the French or the Germans: his having been born at Ingelheim, as moſt affirm, or at Carleſburg in the upper Bavaria, as many believe; and his ſpeaking the German tongue, with this teſtimony of Eginhardus: "Menſibus juxta "patriam linguam nomina impoſuit; cùm ante id tempus apud Francos, "partim latinis, partim barbaris nominibus appellarentur. Januarium "appellavit Wintermonat, Februarium Hornung, Martium Lentzmonat, "etc.

"; etc.*" Theſe, I ſay, are urged by the Germans, as no mean arguments. But theſe matters concern not our enquiry.

If you cannot reconcile the emperor's being ſomewhere ſaid to be "ſacri imperii miniſter," and elſewhere declared to have no ſuperior, "niſi Deum "et enſem," but God and the ſword, Bartolus tells you, "de verbis non "curat jureconſultus," the intention is to be regarded before the words: the intention of the ſtates in that declaration, anno 1338, was none other than to exclude the wild pretenſions of the pope; to deny a foreign juriſdiction, not to confeſs or introduce any new ſubjection in themſelves: "limitata ex certâ cauſâ confeſſio non niſi limitatum producat effectum."

But I cannot conclude without ſome reflection on theſe frauds à la mode, the ruſe and fineſſe, which the French ſo loudly boaſt at this day. Lewis the eleventh would not have his ſon learn more latin than "qui neſcit diſſi-"mulare, neſcit regnare." The old Romans had another ſort of ſpirit: we are told in Livy, "haec Romana eſſe, non verſutiarum Punicarum, neque "calliditatis Graecae, apud quos fallere hoſtem quàm vivi ſuperare glorio-"ſiùs fuerit, dolo quàm virtute †." It is like a Roman, to deal openly and roundly; not to practice the Carthaginian legerdemain tricks, or Graecian cunning, whoſe glory is to circumvent; and by fraud, not virtue, overcome an enemy.

The Venetians at this day are commended for the ſame ſtyle. "Il "procedere veramente regio negli affari publici, il negoziare ſaldo, e "libero, e ſenza artificio o duplicita; non maſcherato, non finto, ma "ſincero, e del tutto alieno da ogni diſſimulazione e fallacia." Their proceedings in public affairs, ſays our author, is truly royal; they negociate upon the ſquare, frankly, and without artifice, or double-dealing, not diſguiſed, or upon the ſham; but ſincere, and every way far from all diſſembling and tricks. And indeed the bugie and inganni, and little Italian ſhifts, would better become duke Valentine and the petty princes, than any kingdom or commonwealth of true ſtrength and ſolid reputation. The σοφισματα and the προφασεις, the ſophiſtries and ſtate-pretences of this kind, however furbiſhed up, and gloſſed over of late by our politic brokers, were all ſtale cheats, and worn out even in Ariſtotle's time ‡.

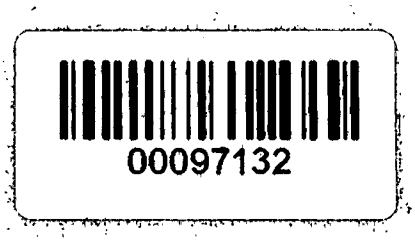
Thus have I hinted matters to you, and only touched upon heads without anticipating your reflections and applications. I have not treated you like a ſtranger, but as one thoroughly informed, before-hand, and to whom all thoſe difficulties are familiar, which I can only diſcover at a diſtance. And after all, I muſt fly from your judgment, to your good nature.

I am, etc.

* Vita Karoli Magni per Eginhardum ſcripta. Vide Script. Rerum Germ. per Reuberum editos.

† Liv. l. 42, § 47.

‡ Εστι δ' ὁσα προφασεως χαριν εν ταις πολιτειαις σοφιζονται προς το δημον, πενητε τον αριθμον, etc. Ariſt. de Repub. l. 4. c. 13.—Vide ſuprà, ſect. 3. p. 13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